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PROVINCE OF ONTARIO  
ROYAL COMMISSION  
ON  
THE WORKMEN'S COMPENSATION ACT

HEARINGS HELD AT  
TORONTO, ONTARIO

VOL. NO.

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25 October 1966

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Nethercut & Young

Toronto, Ontario

IN THE MATTER OF The Public Inquiries  
Act, R.S.O. 1960 Ch. 323

- and -

IN THE MATTER OF an Inquiry Into and  
Report Upon The Workmen's Compensation  
Act

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BEFORE: The Honourable Mr. Justice G.A.  
McGillivray, Commissioner, at  
Room 200, 67 Richmond Street  
West, Toronto, Ontario, on Tuesday  
25 October, 1966

-----

APPEARANCES:

W.Z. Estey Q.C. ) Counsel to the Commission  
and H.D. Guthrie)

W.D. Staniforth) Forest Products Accident  
E.H. Reeves ) Prevention Association

F. Buckle )  
E.A. Perry ) Ontario Mining Association  
Mr. McIntosh)

R.L. Smith Department of Mines

V.J. Doody Transportation Safety  
Association of Ontario


R.J.D. Anderson Industrial Accident  
Prevention Association

R. Koskie )  
R. Atkey ) Labourers' International  
F. Ward ) Union of North America  
G. Gallagher)

M. Lynch )  
N. Pike )

Dr. Bernard Ontario Medical Association

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INDEX

Page No.

1	Forest Products Accident Prevention Association	2226
2	Ontario Medical Association	2270
3	Ontario Mining Association	2270
4	Ontario Department of Mines	2260
5	Industrial Accident Prevention Association	2315
6	Transportation Association of Ontario	2316
7		
8	Labourers' International Union of North America	2317

9

10

EXHIBITS

11	31	Monthly Statistics January to August, 1966	2280
12			
13	32	Copy of Procedure followed by Township of Scarborough regarding safety measures	2324
14	33	Chart: Suggested Advisory Board on Safety	2330
15	34	Document headed "Canadian Association of Professional Safety-men. Information and instruction for membership applicants	2344
16			
17	35	Monies paid out to the various W.C.B.'s across Canada and the amounts they paid out to injured workers.	2353
18			
19	36	Bundle of Posters	2372

20

21

22

23

24

25

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1 --- On commencing at 10:00 a.m.

2 MR. ESTEY: Mr. Commissioner, continuing  
3 with the matters raised in our notice for Monday, October  
4 the 24th, we have a series of associations and organizations  
5 who indicated their preference to appear this morning, the  
6 first of which is Forest Products Accident Prevention  
7 Association.

8 MR. STANIFORTH: My name is W. Donald  
9 Staniforth. I am President of the Forest Products Accident  
10 Prevention Association. I would like to present this  
11 brief.

12 We, the Directors of the Forest Products  
13 Accident Prevention Association, welcome this opportunity  
14 to submit to you our brief relating to the activities and  
15 opinions of our Association servicing approximately 2,500  
16 firms engaged in the forest products industry included in  
17 Schedule 1, Class 01 of the Workmen's Compensation Act.

18 This Association was organized in 1915 and  
19 operates under authority of Section 117 of the Workmen's  
20 Compensation Act. Therefore, our comments will be restricted  
21 to that portion of the Act that recognizes safety associa-  
22 tions, which are financed and directed by management of  
23 companies within Schedule 1 of the Act.

24 We desire to give you a rapid summary of  
25 Association activities.

26 The original concept of safety emissaries  
27 has been markedly updated, attaining a professional status  
28 which has been developed through detailed study of all  
29 aspects of industrial safety in the forest products industry.

30 The Association has constantly increased







1 its intensive efforts, during the past ten years, in the  
2 accident control training of all ranks of supervisors in  
3 our industry. Following several years of supervisory train-  
4 ing by our general field staff, the Association engaged a  
5 professional instructor two years ago and since that time,  
6 we have increased our instruction staff to four professional  
7 supervisory training instructors, and further expansion is  
8 indicated.

9               This staff concentrates solely on the train-  
10 ing of supervisors of our member companies in such a manner  
11 that the supervisors can, in turn, pass their knowledge and  
12 practice on to the workmen in their charge who are their  
13 prime responsibility.

14              Although the company supervisor is the logi-  
15 cal man to train the workmen in his charge , the Association  
16 does augment this basic field training by holding more than  
17 five hundred employee safety meetings each year. This is  
18 accomplished by a staff of five field representatives who  
19 also are active in safety promotion at senior management  
20 level.

21              The sustained efforts of the Directors,  
22 management, staff and membership of the Association over  
23 the past ten years have shown good results as indicated by  
24 the reduction in injury frequency for the period 1955 to  
25 1964.

26              In the logging industry there was a reduc-  
27 tion of 44.6 per cent in injury frequency and a reduction  
28 of 24.4 per cent in the sawmill industry. During this ten  
29 year period, the veneer and plywood mills showed an even  
30 greater reduction of 53.6 per cent.





1 This data, far from encouraging complacency,  
2 indicates to all members of our industry that promotion of,  
3 and training in, accident control is effective. The contin-  
4 uation of such efforts, in the same environment, will  
5 result in even further reduction in injuries in our industry.

6 The environment in which these results have  
7 been produced is one where full control and direction by  
8 senior management of our industry has been maintained and  
9 these individuals have been democratically elected as  
10 Directors of this Association.

11 Their efforts have encouraged and inspired  
12 the staff and membership of the Association and this essen-  
13 tial motivation toward an ever increasing degree of success  
14 should be maintained, without dilution or substitution,  
15 since it emanates from those most intimately concerned with  
16 the welfare of the industry and its employees.

17 This brief is respectfully submitted on  
18 behalf of the Directors and member companies of the Forest  
19 Products Accident Prevention Association.

20 THE COMMISSIONER: When you say your direc-  
21 tors have been democratically elected, elected by whom?

22 MR. STANIFORTH: Elected by the member  
23 firms.

24 THE COMMISSIONER: By the member firms?

25 MR. STANIFORTH: Yes. There is an annual  
26 meeting each year and each firm in our industry is auto-  
27 matically a member of the Forest Products Accident Preven-  
28 tion Association.

29 THE COMMISSIONER: You say that their  
30 efforts should be maintained, without dilution or substi-







1 tution, since it emanates from those most intimately con-  
2 cerned with the welfare of the industry and its employees.  
3 What do you mean by that?

4 MR. STANIFORTH: Well, we mean that the  
5 people responsible, in other words, top management, in the  
6 various firms, have been responsible and have been repre-  
7 sented on the Board, and it has been their guidance that  
8 has been operating the Association and it is felt that this  
9 is a good way to handle it rather than take away some of  
10 the responsibility. I don't know how it could be taken  
11 away.

12 THE COMMISSIONER: This is the set-up of  
13 your organization. What about down at the plant level? Do  
14 have  
15 you/safety committees?

16 MR. STANIFORTH: Safety committees are  
17 encouraged. The people working for our Association strive  
18 to assist firms to set up committees at plant level, and  
19 they include the supervisors and members of the working  
20 force.

21 THE COMMISSIONER: At the plant level there  
22 are members of the labour organization who do participate?

23 MR. STANIFORTH: Yes, they sit in and par-  
24 ticipate. I know a lot of the firms have what they call  
25 safety inspections. I know we handle it in our own firm  
26 group, led by a supervisor and possibly three or four  
27 people from the working force make a tour of the operation  
28 and they bring out any unsafe conditions and a report is  
29 made. I know our own firm finds this very beneficial.  
30 Somebody with a fresh eye spots an unsafe condition and it  
is usually directed to the proper quarter. Another thing







1 we try to promote. We have to do a selling job. When I  
2 say we, the Association has to do a selling job on this.  
3 Some firms, I would say, tend to be lax.

4 THE COMMISSIONER: What is your firm, Mr.  
5 Staniforth?

6 MR. STANIFORTH: Our firm is Staniforth  
7 Lumber and Veneer Limited. We operate a saw mill, a logging  
8 operation and a veneer plant.

9 THE COMMISSIONER: You are President of  
10 this Association, Forest Products Accident Prevention Assoc-  
11 iation?

12 MR. STANIFORTH: Yes, that is right.

13 THE COMMISSIONER: You have a General  
14 Manager?

15 MR. STANIFORTH: We have a General Manager,  
16 yes, Mr. Reeves. He is right here.

17 THE COMMISSIONER: And Field Supervisor  
18 and others in training?

19 MR. STANIFORTH: Yes.

20 THE COMMISSIONER: And I see four or five  
21 Field Representatives. So as far as your Board is con-  
22 cerned, it meets from time to time?

23 MR. STANIFORTH: Yes, from time to time.

24 THE COMMISSIONER: Frequently?

25 MR. STANIFORTH: Four to five times a year,  
26 sir.

27 THE COMMISSIONER: So generally speaking  
28 the administration of your particular Association is left  
29 in the hands of the General Manager?

30 MR. STANIFORTH: Yes. There is a committee,







1 an executive committee that meet and guide the General  
2 Manager. So there are general meetings four or five, and  
3 then there are executive committee meetings, depending on  
4 what comes up, where Mr. Reeves needs guidance on.

5 THE COMMISSIONER: It appears from these  
6 safety associations that at the plant level, labour is  
7 taking part in the safety committees. Is there any objec-  
8 tion by your directors to having representative of labour,  
9 one or more?

10 MR. STANIFORTH: As I see it, personally,  
11 my thinking is that it is management's responsibility to  
12 organize the working force and safety ties right in with  
13 production, it is part and parcel of production; you can't  
14 separate them, in my opinion. I believe that with the way  
15 that operates I do not think there would be any advantage  
16 to having a labour representative on our Board.

17 THE COMMISSIONER: They should be just as  
18 interested in accident prevention as management, shouldn't  
19 they?

20 MR. STANIFORTH: I would think so, but I  
21 just question whether that is the best way that they should  
22 participate.

23 THE COMMISSIONER: Mr. Estey?

24 MR. ESTEY: Mr. Staniforth, what is the  
25 relationship between the area covered by your Association  
26 and that covered by the Ontario Pulp and Paper Makers'  
27 Association?

28 MR. STANIFORTH: All the firms that pay  
29 assessment into Class 1 are covered by our Association;  
30 and the Pulp and Paper Makers, that is Class 2.







1 MR. ESTEY: So I take it the field opera-  
2 tion, the cutting down of trees, does not fall under Class  
3 2 but falls under forest products.

4 MR. STANIFORTH: That is right.

5 MR. ESTEY: So if the pulp company had a  
6 woods operation, it would fall into your operation, but in  
7 the plant it would fall into the other operation, and your  
8 operation covers both the field operation and the sawmills?

9 MR. STANIFORTH: Yes.

10 MR. ESTEY: You have inside and outside  
11 workers; is that right?

12 MR. STANIFORTH: Yes.

13 MR. ESTEY: In your accident prevention  
14 work I take it that your Board meets two or three times a  
15 year?

16 MR. STANIFORTH: Four or five, yes.

17 MR. ESTEY: Where does it meet? Here in  
18 Toronto?

19 MR. STANIFORTH: It would meet in Toronto.  
20 We meet in North Bay; we usually have our annual meeting  
21 in April in North Bay.

22 MR. ESTEY: I see most of your Directors  
23 come from the northern part of the province.

24 MR. STANIFORTH: That is right. That is  
25 where the firms, mostly, are operating in the lumbering  
26 business.

27 MR. ESTEY: In fact, none of your Directors  
28 come from anywhere near Toronto; the closest one would be  
29 from North Bay?

30 MR. STANIFORTH: There is one in Durham,





1 Mr. Lang.

2 MR. ESTEY: The rest are from the north?

3 MR. STANIFORTH: Yes. We don't cover the  
4 furniture industry. That is where the sawmills and woods  
5 operations are.

6 MR. ESTEY: I take it your safety work is  
7 carried out from day to day with Mr. Reeves and he, in turn,  
8 works with the Field Supervisor. What does the Field Super-  
9 visor do?

10 MR. STANIFORTH: Mr. Potts?

11 MR. ESTEY: Yes.

12 MR. STANIFORTH: I think Mr. Reeves could  
13 answer that better than I could.

14 MR. REEVES: The Field Supervisor, Mr. Potts,  
15 is what you might call a field manager. He checks regularly  
16 on all of the field staff, visits with them and assists them  
17 when they get into any problem. Also, he is the promotion  
18 officer of the Association.

19 MR. ESTEY: Where is he located?

20 MR. REEVES: In Bracebridge.

21 MR. ESTEY: Where are your foremen training  
22 personnel located, Mr. Millette, Mr. Tabor and Mr. Vaillan-  
23 court?

24 MR. REEVES: Mr. Millette is located in  
25 Matheson; Mr. Tabor is located in Port Arthur; Mr. Vaill-  
26 ancourt is located in North Bay. We have another man who  
27 is listed as a Field Representative at the moment. He was  
28 appointed as a foreman training instructor in July of this  
29 year. That is Mr. Ethier, and he lives in Timmins.

30 MR. ESTEY: Now, where are the Field







1 Representatives located? You have four of those.

2 MR. REEVES: Mr. Ellis is located in Orillia;  
3 Mr. Ketonen is located in Port Arthur; Mr. Laplaunte is  
4 located in Sudbury. Mr. Maclean is no longer with us. He  
5 has returned to his original employment. We have a Mr.  
6 Castonguay, who is in Timmins.

7 MR. ESTEY: Do you have any offices other  
8 than in Toronto?

9 MR. REEVES: No - pardon me, we have one  
10 very small office in Port Arthur.

11 MR. ESTEY: You have a foreman training  
12 and a field representative there?

13 MR. REEVES: Yes.

14 MR. ESTEY: I take it Mr. Potts travels  
15 from place to place to supervise the work of those men?

16 MR. REEVES: Yes.

17 MR. ESTEY: We have heard a great deal of  
18 discussion about the advisability or otherwise of giving  
19 more than advisory instructive powers to these associations,  
20 that they should have regulatory powers and they should  
21 perhaps be part of the safety enforcement apparatus which  
22 is presently in the Department of Labour. At the present  
23 time you do not have any power to go into a place and order  
24 someone to do something or stop doing something.

25 MR. REEVES: No, we do not.

26 MR. ESTEY: I take it your Board has, from  
27 time to time, discussed this question as to whether or not  
28 they should have these powers.

29 MR. REEVES: The Board of Directors know  
30 the extent of the activities of our field men and they have







1 not, at any time, requested that they have regulatory powers.

2 MR. ESTEY: What liaison or coordination,  
3 if any, do you carry on with the departments of government?  
4 Do you operate under Lands and Forest?

5 MR. REEVES: Both Lands and Forest, as far as  
6 the Loggers Safety Act is concerned and the Department of  
7 Labour as far as the Industrial Safety Act is concerned,  
8 sawmills and plywood plants.

9 MR. ESTEY: So you deal with both depart-  
10 ments?

11 MR. REEVES: Yes, that is right.

12 MR. ESTEY: Some discussion has been held  
13 here that those two divisions of the safety departments  
14 should be combined. Do you find any difficulty arising  
15 by reason of the fact that you are dealing with both Lands  
16 and Forests and the Department of Labour?

17 MR. REEVES: No, none whatever.

18 MR. ESTEY: No difficulty whatsoever?

19 MR. REEVES: No, none.

20 MR. ESTEY: Under the Loggers Safety Act  
21 are there some such regulations set up to govern the forest  
22 operations of the companies cutting down trees?

23 MR. REEVES: Yes, there are.

24 MR. ESTEY: And those are regulations which  
25 Field Supervisors educate the workers on?

26 MR. REEVES: That is right, and management  
27 also, of course.

28 MR. ESTEY: And then you do the same thing  
29 with regard to the inside workers in the sawmills and veneer  
30 plants?





1 MR. REEVES: That is right.

2 MR. ESTEY: And today you are dealing with  
3 the code established by the Department of Labour, is that  
4 right?

5 MR. REEVES: Yes.

6 MR. ESTEY: Do you have occasion in your  
7 Association to complain to either department about the ade-  
8 quacy or otherwise of the regulations?

9 MR. REEVES: Yes, we do.

10 MR. ESTEY: And that is a constant flow back  
11 and forth, is it?

12 MR. REEVES: Yes.

13 MR. ESTEY: Where you make suggestions to  
14 the department and the department explains their position to  
15 your Association?

16 MR. REEVES: No, not that. If we see a  
17 situation which is contravening the regulations of the Act  
18 and it is not correct, then we report it to the proper  
19 department.

20 MR. ESTEY: That is if you find some situa-  
21 tion which is contrary to the Act, you report it?

22 MR. REEVES: That is right, yes.

23 MR. ESTEY: My question, Mr. Reeves, is  
24 whether or not, in the day to day operations of your Associa-  
25 tion whether you find that the regulations are not practical  
26 on occasion, let us say under the Loggers Safety Act, or one  
27 of the other statutes. What does your Association do when  
28 you run into that situation?

29 MR. REEVES: Well, when it does come up - I  
30 can't remember any offhand, but I would have discussions







1 with the chief of that particular government department.

2 MR. ESTEY: Has your Association, in your  
3 time, ever initiated a proposal for regulations on safety?

4 MR. REEVES: Yes.

5 MR. ESTEY: What do you do with it?

6 MR. REEVES: We turn it over to the depart-  
7 ment concerned.

8 MR. ESTEY: Have they acted on your proposal?

9 MR. REEVES: Yes.

10 MR. STANIFORTH: Pardon me, when they drew  
11 up the Loggers Safety Act, I believe we were consulted; in  
12 other words, we gave suggestions before they made the final  
13 issue of the Act to make sure that the thing was practical.

14 MR. ESTEY: Mr. Staniforth, is there a  
15 fairly regular and close contact between the government  
16 department and your Association on matters such as a new  
17 act or new regulation?

18 MR. STANIFORTH: Yes.

19 MR. ESTEY: At least as far as Mr. Reeves  
20 is concerned?

21 MR. STANIFORTH: Yes.

22 MR. ESTEY: I see by the annual report for  
23 1965 that your total budget was \$167,164. Now that is made  
24 up of a grant, a rental allowance, presumably, and an al-  
25 location of some of the expenses of the Workmen's Compensa-  
26 tion Board administration to your Association and you actually  
27 handled \$161 odd thousand, am I reading this correctly?

28 MR. REEVES: Yes.

29 MR. ESTEY: I am referring to what is in  
30 the Exhibit here, Exhibit 18. Now, where does the \$151







1 thousand, nearly \$152 thousand go in the main? How do you  
2 break those expenditures down?

3 MR. REEVES: The largest item, of course,  
4 is salaries and the second largest, the travelling expenses  
5 of all of the field staff and the third item would be moneys  
6 that we expend in postage, pamphlets, motion picture films  
7 we would make and occasionally at times we have our instruc-  
8 tors receive training from a professional individual.

9 MR. ESTEY: These posters which you talk  
10 about, are they drawn, printed and distributed by your  
11 Association?

12 MR. REEVES: Yes, they are.

13 MR. ESTEY: Does the Board itself also  
14 send out posters for safety?

15 MR. REEVES: I don't know of any, I can't  
16 remember any.

17 MR. ESTEY: As far as your members are  
18 concerned they get their safety advertising, if that is the  
19 word, from you and not from the Department of Labour or  
20 the Board?

21 MR. REEVES: Yes, they get all their posters  
22 promoting safety from our Association, or through our  
23 Association.

24 MR. ESTEY: Do you have a mailing list  
25 through which you regularly pump these things as they are  
26 issued or how do you go about this?

27 MR. REEVES: We have a mailing list of all  
28 our larger firms and these posters go out about once every  
29 two weeks in the quantities that each firm desires and then  
30 our own field staff carry a supply of the same posters and





1 issue them to the small firms.

2 MR. ESTEY: Every two weeks you send out  
3 some kind of a circular?

4 MR. REEVES: Approximately, yes.

5 MR. ESTEY: Do you mean you are printing  
6 new posters at that rate or do you reissue them or how do  
7 you get such a volume?

8 MR. REEVES: We have been creating quite a  
9 few posters of our own. We also purchase them. We share  
10 quite a large amount of poster production now with our sister  
11 association in the Province of Quebec, the Quebec Lumber  
12 Industry Safety Association.

13 MR. ESTEY: Is that affiliated with their  
14 Workmen's Compensation Board in the same way?

15 MR. REEVES: Similarly to the way we are,  
16 yes

17 MR. ESTEY: And you trade material?

18 MR. REEVES: We do and also we go together  
19 to produce posters occasionally which reduces the cost to  
20 both associations.

21 MR. ESTEY: You mail these out and you say  
22 you also send them out through your staff?

23 MR. REEVES: Yes.

24 MR. ESTEY: How do you make sure they are  
25 used or posted, or are they posted?

26 MR. REEVES: That is one of the responsib-  
27 ilities of our staff, to make sure that they are posted in  
28 the various member companies.

29 MR. ESTEY: You have 2,500 members and there  
30 are, presumably, 2,500 members at least where they should







1 be posted. Do you find that your members are cooperative or  
2 is this a method of fuelling the wastepaper basket?

3 MR. REEVES: No, most of our posters, as I  
4 say, are used - quite frequently from the quantity we pro-  
5 duce we expend the entire supply and have to reprint. That  
6 occasionally happens.

7 MR. ESTEY: These companies ask for these  
8 on occasion?

9 MR. REEVES: On occasion they ask for more  
10 of the same poster.

11 MR. ESTEY: Has it been the experience of  
12 the Association that posters are helpful?

13 MR. REEVES: To a degree they are helpful,  
14 yes.

15 MR. ESTEY: How much do you spend on them  
16 a year?

17 MR. REEVES: About \$3,500.

18 MR. ESTEY: How much do you spend on tele-  
19 vision?

20 MR. REEVES: Some years practically nothing.  
21 This year we are spending about \$350.

22 MR. ESTEY: Do you do that in cooperation  
23 with the other safety associations?

24 MR. REEVES: We do that in cooperation with  
25 our various districts.

26 MR. ESTEY: What do you mean by "districts"?

27 MR. REEVES: Our district committees that  
28 we have throughout Ontario.

29 MR. ESTEY: What are they?

30 MR. REEVES: They are small segments of our







1 management who have a committee, for instance, where there is  
2 a fairly large concentration of logging and sawmill activity.  
3 The manager of that particular area forms his own little  
4 association. We get them to form it, it is under our  
5 control.

6 MR. ESTEY: Do they have officers and so on,  
7 or is it just a meeting?

8 MR. REEVES: It is just a meeting.

9 MR. STANIFORTH: They have their own officers  
10 though.

11 MR. REEVES: They have a chairman.

12 MR. STANIFORTH: And secretary and they run  
13 their own show. It is a group that is directed from us.

14 MR. ESTEY: It is geographic, it is not all  
15 the veneer plants grouped together and all the sawmills, just  
16 those in an area?

17 MR. REEVES: That is right.

18 MR. ESTEY: And those in the area, I take  
19 it, advise you as to whether or not they want to spend money  
20 on television or some safety pronouncement?

21 MR. REEVES: No, if we can make an arrange-  
22 ment with a local TV station, the parent body approves the  
23 expenditure and the local committee supplies the individuals  
24 who participate in the program.

25 MR. ESTEY: That is a very small item in  
26 your particular association?

27 MR. REEVES: Yes.

28 MR. ESTEY: We have heard that the construc-  
29 tion safety, and perhaps others, have a much bigger tele-  
30 vision program. I take it, it is because you are up in the





1 northern outlying areas where television is not as available  
2 as it is in the south?

3 MR. REEVES: Yes, that is right.

4 MR. ESTEY: But your main activity is educa-  
5 tion through instruction and your secondary activity is  
6 education through publication of the pamphlets, is that a  
7 fair summary?

8 MR. REEVES: The bulk of our activity, by  
9 far the bulk of our activity, is through direct education,  
10 to the supervisors, to management and employees.

11 MR. ESTEY: Through your foremen training  
12 and through your Field Representatives?

13 MR. REEVES: That is right.

14 MR. ESTEY: And they do that by holding  
15 meetings with the employees in the plant or in the woods  
16 operations?

17 MR. REEVES: That is right, yes.

18 MR. ESTEY: Does the Department of Labour  
19 do anything in this connection, instruction in safety?

20 MR. REEVES: I haven't heard of them doing  
21 it in our particular industry but there has been some dis-  
22 cussion on it with certain segments of our industry and the  
23 Department of Labour.

24 MR. ESTEY: How much information do you  
25 regularly get, if any, with the Board concerning high  
26 frequency of accidents in connection with some type of  
27 machine or some type of operation? Do you ever get that  
28 kind of information?

29 MR. REEVES: They supply us the basic data  
30 from which we can determine that ourselves.







1 MR. ESTEY: You accept the raw material and  
2 you sort it out yourself?

3 MR. REEVES: That is right, yes.

4 MR. ESTEY: What does the Association do  
5 when new tools are introduced? Take the new power handsaw,  
6 is there a program of safety education on how to use that  
7 and the use of a safety hat when you use a machine and all  
8 this kind of thing?

9 MR. REEVES: Oh yes, we determined what the  
10 hazards were in connection with operating the power saw and  
11 have issued booklets, instruction booklets, to the men.

12 MR. ESTEY: Did you recommend any particular  
13 regulations to the Department of Labour or Lands and Forests  
14 about using this type of machine?

15 MR. REEVES: When they were preparing the  
16 Loggers Safety Act they had meetings with the various parties  
17 that would be affected by the Loggers Act and we put in our  
18 proposal then.

19 MR. ESTEY: What happens when there is a  
20 new type of process introduced in the veneer plants? Does  
21 your Association then initiate the appropriate safety legis-  
22 lation, or does that come down from the Department of Labour?

23 MR. REEVES: That usually comes down from  
24 the Department of Labour. They usually are quite familiar  
25 with the process when it comes into the plant. They are  
26 usually watching it.

27 MR. ESTEY: How do they watch it?

28 MR. REEVES: I wouldn't know that, but we  
29 again obtain statistics on any new process.

30 MR. ESTEY: Do you get those from the Board?





1 MR. REEVES: The basic data we get from the  
2 Board, yes.

3 MR. ESTEY: This educational program which  
4 you carry on is done under the auspices of the Board from a  
5 financial viewpoint and, in fact, it is done by industry  
6 itself organizing under this Association, I take it?

7 MR. REEVES: Yes.

8 MR. ESTEY: Is there any advantage in moving  
9 this operation into the Department of Lands and Forests or  
10 the Department of Labour so that you are closer to the people  
11 who make the safety rules that you are trying to sell and  
12 enforce?

13 MR. REEVES: I could answer that, possibly,  
14 another way, by saying that if we don't have any contact  
15 with enforcement the reception of our educational material  
16 is much better. We are not policemen, in other words.

17 MR. ESTEY: If I understand you, that is a  
18 good point and I just want to expand on that for a minute.  
19 I want you to assume that you retain your autonomy, which  
20 you now have, and the fact that you are a voluntary Associa-  
21 tion of employers trying to improve your safety record,  
22 because that is about what you are now.

23 MR. REEVES: Yes.

24 MR. ESTEY: But instead of operating under  
25 the Board, from which you get your funds, would there be any  
26 advantage in operating under the Department of Labour, from  
27 whom you would get your funds - and I am not going now into  
28 how they would get the money - by the simple fact that you  
29 are really dealing with their regulations, you are not deal-  
30 ing with the Workmen's Compensation Board regulations. Now







1 why wouldn't you be better advised working under the auspices  
2 of the organization whose regulations you are trying to have  
3 carried out? You are not enforcing them, you are trying to  
4 have them carried out.

5 MR. REEVES: In part we are trying to have  
6 the regulations of the various acts carried out but we also  
7 spend a great deal of our time training both supervision and  
8 the workmen concerning unsafe acts that create accidents and  
9 will result in injuries. A lot of those unsafe acts / <sup>could</sup> not  
10 possibly appear in legislation.

11 MR. ESTEY: Let me approach it from another  
12 angle. What do you get from the Workmen's Compensation  
13 Board on a day-to-day basis, which assists your work?

14 MR. REEVES: Well, we have all the statis-  
15 tical data coming in to us.

16 MR. ESTEY: Statistics of accidents?

17 MR. REEVES: Yes, the basic data, as I said  
18 before.

19 MR. ESTEY: How often do you get that?

20 MR. REEVES: Every day.

21 MR. ESTEY: Do you get all the claims?

22 MR. REEVES: No, we get a copy of the infor-  
23 mation on the claims, the accident information on every  
24 compensable claim they receive.

25 MR. ESTEY: If a man is hurt in one of your  
26 veneer plants, do you get the form 7 sent to you?

27 MR. REEVES: No.

28 MR. ESTEY: What do you get?

29 MR. REEVES: We get a form called 25A which  
30 has the basic accident data which is picked up from the





1 form 7.

2 MR. ESTEY: It doesn't show the man's name,  
3 I take it, or that kind of thing?

4 MR. REEVES: It shows the man's name and the  
5 company name and the date of the accident, what the man was  
6 doing and the type of injury.

7 MR. ESTEY: And the ruling on his claim?

8 MR. REEVES: No, we do not get that.

9 MR. ESTEY: This is before his claim is  
10 ruled upon?

11 MR. REEVES: I understand we get the form  
12 25A when the claim has been processed by the Board.

13 MR. ESTEY: After the claim is processed, so  
14 that you only get reports on claims which are granted?

15 MR. REEVES: Yes.

16 MR. ESTEY: Accidents which occur and which  
17 are compensated and you get a description of them as to  
18 where it occurred and when it occurred and what the accident  
19 amounted to?

20 MR. REEVES: That is right.

21 MR. ESTEY: And then what do you do with  
22 all those forms, what is the number of it?

23 MR. REEVES: 25A.

24 MR. ESTEY: What do you do with those forms?

25 MR. REEVES: Well the first thing we do when  
26 we get them is catalogue them as to the agent causing the  
27 injury, the type of injury.

28 MR. ESTEY: What do you mean by the agent  
29 causing the injury - the machine?

30 MR. REEVES: Whether power saw or tractor







1 or guillotine in a sawmill.

2 MR. ESTEY: And you classify it as to whether  
3 it was a wood operation accident or manufacturing injury?

4 MR. REEVES: Yes.

5 MR. ESTEY: Then you process them?

6 MR. REEVES: Yes.

7 MR. ESTEY: Where is that done?

8 MR. REEVES: Here in Toronto.

9 MR. ESTEY: And then what do you do?

10 MR. REEVES: A copy is sent to all our  
11 Field Representatives so they can check up with the companies  
12 concerned. Also, any type of an accident occurring that I  
13 might want investigated, that is sent along with special  
14 forms to the field man to get a special investigation of  
15 that particular type of accident.

16 MR. ESTEY: Mr. Reeves, what percentage of  
17 accidents do you think your representative would actually  
18 go back and discuss with employers, what percentage of these  
19 claims?

20 MR. REEVES: It would be the bulk of them.  
21 I couldn't give you a percentage.

22 MR. ESTEY: The bulk of them is good enough.  
23 So in the majority of cases, after you get notice of this  
24 and after you classify them in your index system, you send  
25 the information out to the nearest Field Representative and  
26 he investigates it, not with a view to whether the man  
27 should be compensated but with a view to what should be  
28 done to avoid a recurrence, that is what you are doing?

29 MR. REEVES: Yes.

30 MR. ESTEY: Now, after you have investigated





1 that - and I take it that is done through your foreman  
2 training people and through your Field Representatives and  
3 perhaps also through Mr. Potts?

4 MR. REEVES: Chiefly through our Field  
5 Representative and also investigated by our foremen training  
6 people.

7 MR. ESTEY: And they go down and see the  
8 plant and they talk to the supervisor of personnel and,  
9 perhaps to the man who is injured, and report back to you,  
10 I take it.

11 MR. REEVES: Yes.

12 MR. ESTEY: Then what is done?

13 MR. REEVES: Well, when the field man dis-  
14 cusses the injury with the company concerned, he advises the  
15 company how possibly it could be avoided in future. If there  
16 is some peculiar development concerning that particular  
17 accident, he gets in touch with me, he does not report spec-  
18 ifically on his investigation until consultation with manage-  
19 ment in every accident.

20 MR. ESTEY: Do you report back to the Board,  
21 on occasion, when you get this report in from your field  
22 representative?

23 MR. REEVES: No, if we were requested, we  
24 would.

25 MR. ESTEY: Are you requested sometime?

26 MR. REEVES: On some occasions, yes.

27 MR. ESTEY: What kind of a request would  
28 you get from the Board?

29 MR. REEVES: Well, they might want to find  
30 out how the accident was caused and we would give them the







1 details as we knew them.

2 MR. ESTEY: Would this be in connection with  
3 their investigations to see whether or not they would com-  
4 pensate the man?

5 MR. REEVES: I would not know that.

6 MR. ESTEY: You are not told that.

7 MR. REEVES: No.

8 MR. ESTEY: If the man was on partial dis-  
9 ability and your man interviewed him and made a report, is  
10 that kind of report turned over to the Board?

11 MR. REEVES: No.

12 MR. ESTEY: What kind of report do you turn  
13 over to the Board?

14 MR. REEVES: Only when they ask us for  
15 information.

16 MR. ESTEY: And then what do you turn over?

17 MR. REEVES: The information they request.

18 MR. ESTEY: It may be a copy of your field  
19 man's interview or it may not?

20 MR. REEVES: It could be.

21 MR. ESTEY: You have no idea whether this  
22 is used in awarding compensation or changing the status of  
23 the man's compensation, or otherwise?

24 MR. REEVES: No.

25 MR. ESTEY: After you have had your reports  
26 in from the field, do you, on occasion, report to the Depart-  
27 ment of Labour?

28 MR. REEVES: Yes, we do.

29 MR. ESTEY: I think you have already indi-  
30 cated that. In a case where there was a continuing





1 violation of a regulation, you report that to the Department  
2 of Labour?

3 MR. REEVES: Yes.

4 MR. ESTEY: I understand they have their  
5 investigative staff scattered over the north country as  
6 well, as they don't all operate out of Toronto and I take  
7 it your field men deal directly with the field men of the  
8 Department of Labour on occasion?

9 MR. REEVES: There may be occasion where  
10 they do but I would not say it is done too often. It usually  
11 comes through my office.

12 MR. ESTEY: In the main the results are  
13 reported back to you and then you contact the appropriate  
14 party at the Department of Labour?

15 MR. REEVES: Yes.

16 MR. ESTEY: On what type of occasion would  
17 you do this?

18 MR. REEVES: Well, for instance, if we saw  
19 there was no cut-back fingers on a sawmill and we had dis-  
20 cussed it with management and still they had not put them  
21 on, I would notify the Department of Labour on that particu-  
22 lar situation.

23 MR. ESTEY: That is a very narrow situation.  
24 Would you have any larger ones where you felt that the  
25 standard of lighting was not adequate for some different  
26 kind of operation, or a machine was introduced by an employer  
27 where you thought the machine was not properly guarded?  
28 Do you have that kind of liaison with the Department of  
29 Labour?

30 MR. REEVES: With the Department of Labour,







1 if we saw a condition like that we would advise them about  
2 it, yes.

3 MR. ESTEY: Now, does that lead to a general  
4 kind of discussion between you and the Department concerning  
5 the adequacy of their regulations?

6 MR. REEVES: No.

7 MR. ESTEY: That you haven't engaged in?

8 MR. REEVES: No.

9 MR. ESTEY: What about these first aid  
10 requirements? Would this kind of thing come up in your  
11 woods operations, discussions with either Lands and Forests  
12 or the Board or the Department of Labour?

13 MR. REEVES: With the Board, it comes under  
14 the Act.

15 MR. ESTEY: That you would take back to the  
16 Board under their regulations?

17 MR. REEVES: Yes.

18 MR. ESTEY: And that is a case where you  
19 have a woods operation, the regulations are laid down by  
20 Lands and Forests but the Workmen's Compensation Board would  
21 regulate the type of first aid equipment the logging company  
22 would have to have?

23 MR. REEVES: Yes.

24 MR. ESTEY: The Department of Labour would  
25 have virtually nothing to do with that, the whole business.

26 MR. REEVES: Not on the logging aspect, no.

27 MR. ESTEY: And so far as the operation of  
28 caterpillars, caterpillars and cranes and so on, are con-  
29 cerned, it is all under Lands and Forests?

30 MR. REEVES: Department of Lands and Forests





1 for logging operations, yes.

2 MR. ESTEY: Unless, I take it, the vehicles  
3 are licenced, in which case you are under the Department of  
4 Transport?

5 MR. REEVES: It would be, then, yes.

6 MR. ESTEY: So you would have three inter-  
7 locking regulations at that time and your job, as you under-  
8 stand it, is to sell the idea of obedience and inform them  
9 of these regulations, you are not policemen at all.

10 MR. REEVES: No.

11 MR. ESTEY: I want to turn back to the money  
12 you lay out in this operation. How do you determine at  
13 the beginning of the year how much money you need to properly  
14 carry out this business?

15 MR. REEVES: Well, from the experience in  
16 previous years, they can determine where our expenditure  
17 is apparently getting some results and maintain, or possibly  
18 increase our program in that area, which might call for more  
19 money. As an example of that, when we started foreman train-  
20 ing, we started off with one instructor and then built it  
21 up to four when we saw the benefits arising from the com-  
22 mencement of our program.

23 THE COMMISSIONER: How long have you been  
24 in this position, Mr. Reeves?

25 MR. REEVES: About thirteen years.

26 THE COMMISSIONER: You have achieved some  
27 notable results in that time, according to your figures.

28 MR. REEVES: Thank you, sir.

29 MR. ESTEY: So that you determine your  
30 budget based on the records, the reaction that you have had





1 in the past of different activities, and then where do you  
2 get your money - by submitting this budget to the Board, is  
3 that correct?

4 MR. REEVES: First of all I submit it to my  
5 directors.

6 MR. ESTEY: And then after that down to the  
7 Board?

8 MR. REEVES: Yes.

9 MR. ESTEY: I don't wish to stir up any  
10 difficulties here, but what happens, do you get cut back  
11 or do you think you need more than \$150,000?

12 MR. REEVES: We never experienced any cut-  
13 back. The Board may discuss certain aspects of these ex-  
14 penditures and I will give them all the details of why we  
15 want to do something.

16 MR. ESTEY: I suppose the biggest battle is  
17 with the Board because they are the ones who really put the  
18 money out.

19 MR. REEVES: I wouldn't say it is a battle.  
20 They are quite anxious for us to receive it.

21 MR. ESTEY: It just goes through the mail  
22 order house of the Board, it is your money?

23 MR. STANFORTH: Yes.

24 MR. ESTEY: What I was really getting at is  
25 if you had \$300,000 instead of \$150,000, would you expend  
26 it through your safety association on this kind of thing or  
27 do you think you have an optimum operation going now at  
28 this point?

29 MR. REEVES: It depends what you mean by  
30 "optimum", Mr. Estey. We are certainly, by no means satisfied







1 with out present development in accident control in our  
2 industry. We can improve a great deal more, certainly with  
3 more funds, more staff, more instructors.

4 MR. ESTEY: Which part of your operation do  
5 you think, if money were no object, you would strengthen -  
6 your instructional contact?

7 MR. REEVES: Instruction, yes.

8 MR. ESTEY: You think the accident preven-  
9 tion starts at the front end up where the man is working and  
10 not through television, publicity and so on?

11 MR. REEVES: Instruction right on the job,  
12 yes.

13 MR. ESTEY: In the front line.

14 MR. STANIFORTH: Yes. I think it starts in  
15 a firm at the top too, if the fellow at the head is really  
16 interested in accident prevention.

17 MR. ESTEY: You have to sell him first.

18 MR. STANIFORTH: There is no doubt about it,  
19 you can't start at the bottom level, it has got to funnel  
20 right down through as the policy of the company.

21 MR. ESTEY: How do you instruct the manage-  
22 ment? You can't send an instructor in to him.

23 MR. STANIFORTH: I think we, as directors,  
24 are in contact with people in our areas and I am very im-  
25 pressed with this training we are talking about. We have  
26 not really explained it too much but, basically, our man  
27 goes into a firm and gives them a course for a whole week.

28 MR. ESTEY: Gives who?

29 MR. STANIFORTH: The supervisors of that  
30 firm.





1 MR. ESTEY: The foreman trainer goes in -  
2 MR. STANIFORTH: ... and trains the super-  
3 visor and he gives them a certain <sup>job</sup> / each day, the training  
4 and then he goes down and gives them on-the-job instruction;  
5 in other words, he is helping the supervisors perform better.  
6 In other words, if they have got a problem of people working  
7 unsafely - it is a lot in how a man corrects the thing.

8 MR. ESTEY: How long does this course last?

9 MR. STANIFORTH: There are six sections so,  
10 in other words he would come in, say, to our firm and give  
11 us the first course and then in about two months time he  
12 comes back and gives the second and he comes back again so  
13 he gives it six times. It is a series of steps up, advanc-  
14 ing.

15 MR. ESTEY: How long does each course take?

16 MR. STANIFORTH: One week.

17 MR. ESTEY: Every two months he comes for  
18 one week?

19 MR. STANIFORTH: Yes.

20 MR. ESTEY: And where is the curriculum for  
21 that course established?

22 MR. STANIFORTH: The curriculum --

23 MR. ESTEY: Who decides what he is going  
24 to talk about?

25 MR. REEVES: Well, I guess I do from the  
26 information that we have obtained from these professional  
27 individuals from whom all of our staff have taken this  
28 instruction.

29 MR. ESTEY: Who are they, where do they  
30 come from?







1 MR. REEVES: Well, for instance, there is  
2 Mr. Latiner from New York City, Mr. Lawson from Vancouver -

3 MR. ESTEY: These are people from other  
4 safety associations?

5 MR. REEVES: They are usually safety con-  
6 sultants, pretty well experts in their fields.

7 MR. ESTEY: And you pay them and they come  
8 and instruct your staff once in a while?

9 MR. REEVES: As we need this course material,  
10 yes, we get them.

11 MR. ESTEY: From that you build up the  
12 course that your foreman trainers are going to follow?

13 MR. REEVES: That is it, yes.

14 MR. ESTEY: You have 2,500 firm members.  
15 Obviously, if each of your segments takes a week you are  
16 not going to get to the 2,500 too frequently. How do you  
17 cover the ground at that pace?

18 MR. REEVES: Well, you see, a lot of these  
19 companies are quite small. We can take from six to fifteen  
20 supervisors in one of our foreman training classes and a  
21 lot of these small companies only have one supervisor and  
22 so we combine from six to ten or eleven companies into what  
23 we call a composite class and take all the supervisors from  
24 that class and give them the training. In a larger company  
25 we will go right into the company and give it to the foremen  
26 of that particular company.

27 MR. ESTEY: That is you might go to some  
28 place like Hearst and have several companies send their  
29 staff to one of the member's premises and at least part of  
30 these six, one-week courses would be given.





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1 MR. REEVES: That is right, yes.

2 MR. ESTEY: So you would cover a lot of  
3 ground by the one foreman trainer going in.

4 MR. REEVES: That is right, yes.

5 MR. ESTEY: Do your field representatives  
6 also administer some or part of these courses?

7 MR. REEVES: No.

8 MR. ESTEY: This is all done by the foremen?

9 MR. REEVES: They help them when they first  
10 get started, bring them in together, find meeting places  
11 and so on, but they don't conduct the course themselves.

12 MR. ESTEY: How frequently do you feel you  
13 cover the whole field, all employers?

14 MR. REEVES: In foremen training we haven't  
15 covered it yet.

16 MR. ESTEY: Then you start over again because  
17 people change?

18 MR. REEVES: People will be changing, yes.

19 MR. ESTEY: What do you think is a desirable  
20 frequency of training?

21 MR. REEVES: I think it should be continuous.

22 MR. ESTEY: How often do you think you should  
23 be going back to the one operation?

24 MR. REEVES: I would like to see us be able  
25 to go back after taking this present six-week course, go  
26 back once every four or five months unless that company  
27 shows by their record that they are slipping a bit and then  
28 we send a man in to find the cause of it.

29 MR. ESTEY: Do you have any studies as to  
30 what the results of these courses are with specific firms





1 in operations?

2 MR. REEVES: Yes, we keep a record of that  
3 particular company's operations.

4 MR. ESTEY: And you told us a while ago that  
5 there is a direct relationship between the administration  
6 of this training and the record of the company?

7 MR. REEVES: Yes.

8 MR. ESTEY: They improve after it?

9 MR. REEVES: Improve, yes.

10 MR. ESTEY: These field representatives do  
11 not participate in the training end, I take it they do your  
12 investigations and your statistics and organizing and run-  
13 ning down complaints and this sort of thing, but no training.

14 MR. REEVES: I thought I had mentioned  
15 earlier, but possibly I hadn't, that our field men - I think  
16 it was mentioned in the brief - conduct some 500 or so  
17 employee safety meetings every year and that is a type of  
18 employee training.

19 MR. ESTEY: Just let me find out from you  
20 in a minute or two what that is about. Where do they hold  
21 those and what are they for?

22 MR. REEVES: Employee safety meetings?

23 MR. ESTEY: Yes.

24 MR. REEVES: They are held on the job.

25 MR. ESTEY: How long do they last and what  
26 are they for?

27 MR. REEVES: Well, they might last for an  
28 hour or they might last for half an hour depending on the  
29 particular situation there, and they are to give your em-  
30 ployee a broader appreciation of the need for him preventing







1 accidents.

2 MR. ESTEY: Do you show films to them too?

3 MR. REEVES: All our field men are equipped  
4 with a slide projector, yes.

5 MR. ESTEY: Are these meetings held on the  
6 job?

7 MR. REEVES: Most of these meetings are  
8 held on the job and so the men are being paid.

9 MR. ESTEY: So when the field man comes  
10 along and holds these meetings, they are on the job and they  
11 receive pay?

12 MR. REEVES: Yes.

13 MR. ESTEY: So he shows these slides and  
14 gives a lecture on safety features and, in a way, he gives  
15 on-the-job instruction.

16 MR. REEVES: Yes. I should correct that,  
17 it is not actually on-the-job instruction; it is advising  
18 the employees of the need for them to work safely, to accept  
19 correct work procedures and to practice them but we don't  
20 give them on-the-job instruction.

21 MR. ESTEY: Then on safety matters, I take  
22 it that they illustrate this lecture with certain practices  
23 which are not safe and they illustrate it with practices  
24 which are safe.

25 MR. REEVES: That is right, yes.

26 MR. ESTEY: To that extent anyway they are  
27 instructing in safety. Now in the course of these meetings  
28 do your men also advise the men of their rights and their  
29 obligation to file their claim and how they file their claim  
30 if they are hurt?





1 MR. REEVES: No.

2 MR. ESTEY: Nothing to do with that at all?

3 MR. REEVES: Nothing to do with that at all,  
4 no.

5 MR. ESTEY: What do you do when you get  
6 complaints - and it must happen - what do you do when he  
7 says he filed his claim and he hasn't heard any more, he  
8 was turned down, what do you do with those?

9 MR. REEVES: Occasionally our men do get  
10 those complaints and we suggest they either go through the  
11 company or get in touch with the closest Workmen's Compens-  
12 sation Board's representative.

13 MR. ESTEY: You don't really have any con-  
14 tact with that side of it at all?

15 MR. REEVES: No, we keep ourselves clear  
16 of it.

17 MR. ESTEY: You refer them to someone else?

18 MR. REEVES: Yes.

19 MR. ESTEY: Do you have any policy as to  
20 the frequency of the attendance by your field representa-  
21 tives on the job for this meeting type of thing you have  
22 described?

23 MR. REEVES: Well, yes, we do. We have our  
24 field men hold about four to six employee safety meetings  
25 per week, each representative.

26 MR. ESTEY: And you have four or five of  
27 them and you have 2,500 firms so you are kept busy just  
28 rotating around to cover everybody once a year?

29 MR. REEVES: Yes.

30 MR. ESTEY: In fact you can't do it?







1 MR. REEVES: It can't be done.

2 MR. STANIFORTH: A lot of the firms in that  
3 2,500 may be operating in the woods for a month. They still  
4 have the firm number and they just might be in the logging  
5 for a month only and then they are farming the rest of the  
6 year, or something like that. That 2,500 sounds like a lot  
7 but a lot of them are in and out. We could never even get  
8 to see them because by the time we do we can't find them.

9 MR. ESTEY: How many plants would there be,  
10 sawmills, veneer mills - what is your third one?

11 MR. REEVES: Veneer and plywood is all one  
12 group.

13 MR. ESTEY: And sawmills. How many of those  
14 types of plants would you have in your membership?

15 MR. REEVES: Well, there is around about  
16 35 veneer and plywood mills throughout the province and  
17 close to 900 sawmills. I would like to qualify that the  
18 way that Mr. Staniforth did. There is a big difference in  
19 those sawmills. Some employ 200 men and some employ 2.

20 MR. ESTEY: Some are seasonal and some are  
21 continuous?

22 MR. REEVES: A few of them are the year  
23 round but the bulk of them are seasonal and most of the  
24 small ones, the season is very, very short.

25 MR. ESTEY: I wanted to come to that and I  
26 might as well deal with it now. In the logging operations  
27 a great deal of that is done in the winter time and the  
28 people engaged in that in the winter time are not engaged  
29 in it in the summer time. How do you convey your safety  
30 information or instruction, or whatever it is, to such a





1 transitory group as the woods workers who are there in the  
2 winter only?

3 MR. REEVES: Well, I think we are getting  
4 away rather steadily from solely winter operations in logg-  
5 ing. We have, over the last 20 years moved rapidly towards  
6 all-weather logging. I would say our logging activity now,  
7 there is only about two months of the year when there is no  
8 logging activity; the rest of the year, the other ten months,  
9 there is.

10 MR. ESTEY: Would the majority of the loggers  
11 be engaged in it permanently, that is year in and year out,  
12 or do you have a loss of seasonal operators as well as  
13 seasonal workers in the actual logging woods operation?

14 MR. REEVES: The men maybe work for a short  
15 time with these small companies but they spend the bulk of  
16 their time in logging, moving from one company to another.

17 MR. ESTEY: And your instructional courses  
18 by your foremen trainers, are they given in much the same  
19 way in the logging operations as in the mill operations?

20 MR. REEVES: Yes.

21 MR. ESTEY: It is a little more difficult  
22 to locate them, I suppose, and get to them, your transporta-  
23 tion problem would be considerable but otherwise they are  
24 the same?

25 MR. REEVES: Well, we move our men in rather  
26 than have the foremen assemble. We move our man right into  
27 the logging operation and he stays there for a week and the  
28 owner of the company assembles his foremen at a certain  
29 hour each day for one hour and, as explained by Mr. Stani-  
30 forth, then they will pick out individual foremen to assist





1 them in applying these operations on the job.

2 MR. ESTEY: So generally it is the same  
3 whether it is a logging operation or a mill operation?

4 MR. REEVES: Yes.

5 MR. ESTEY: How would those two operations  
6 compare in size in your membership? Are the bulk of the  
7 employees in the inside mill operation or the bulk of them  
8 in the woods operation?

9 MR. REEVES: The bulk of the men would be  
10 in the logging operation.

11 MR. ESTEY: Most of them in the logging?

12 MR. REEVES: The greater percentage would  
13 be in the logging operations.

14 MR. ESTEY: Your position then, in summary,  
15 is - and I perhaps can direct this to both of you - your  
16 position, in summary, is that your operation which you have  
17 been good enough to describe in detail, you think can be  
18 more successfully carried on if you are not a wing of the  
19 government but, rather, you continue as an autonomous group  
20 of people engaged in the industry, financed with your own  
21 money and generally administered by the Workmen's Compensa-  
22 tion Board?

23 MR. REEVES: Yes.

24 MR. STANIFORTH: That is right.

25 MR. ESTEY: And that you see no real gain,  
26 but some considerable loss by moving your operations from  
27 the Board to the Department of Labour or the Department of  
28 Lands and Forests?

29 MR. STANIFORTH: Yes, just as Mr. Reeves  
30 mentioned, the reaction can be bad if somebody is enforcing







1 and also trying to train.

2 THE COMMISSIONER: Apart from that, you are  
3 actively interested in holding down your assessments?

4 MR. STANIFORTH: That is right.

5 THE COMMISSIONER: You are the ones that  
6 are chiefly concerned.

7 MR. STANIFORTH: That is one of the greatest  
8 deterrents.

9 MR. ESTEY: Of course you are holding down  
10 your assessment by spending your own money.

11 MR. STANIFORTH: In other words you asked  
12 before if we doubled the expenditure, I think what you were  
13 thinking was could we improve our record. Now, if this  
14 teaching is the thing, and we think it is, maybe that is  
15 the direction to go.

16 THE COMMISSIONER: You think the money spent --

17 MR. STANIFORTH: Might be a very good in-  
18 vestment.

19 THE COMMISSIONER: It is a small comparison  
20 with what your assessments are if you don't achieve the  
21 results.

22 MR. STANIFORTH: That is correct, but it is  
23 a very difficult thing to measure. You asked before, and  
24 I would agree, I think most companies have shown an improve-  
25 ment but sometimes lately there has been, say, a big labour  
26 turnover and that creates more problems, I believe - a new  
27 man. A company has had training but still there is some-  
28 thing else creeping in there that is also a big problem,  
29 like turnover. You keep training new people.

30 THE COMMISSIONER: Just pursuing what Mr.





1 Estey is saying, you are not starving your Association for  
2 funds to do all they should be doing. Mr. Reeves says he  
3 could do more with more funds, but I mean -

4 MR. STANIFORTH: Well, of course, we have  
5 been growing gradually and building up this one aspect of it,  
6 putting more emphasis on the training.

7 MR. ESTEY: Here is what I was going to get  
8 at and I am trying to get at, Mr. Staniforth: To put it  
9 bluntly, you people are the masters of your own fate because  
10 you decide how much you are going to spend and the money  
11 comes out of your own pocket and also, you have to pay an  
12 assessment to the Workmen's Compensation Board. So my simple  
13 question is - if you spend more money on safety, would you  
14 be able to save some money on the assessment side and has  
15 this been discussed and is it discussed each year when you  
16 set your budget?

17 MR. STANIFORTH: It has certainly been  
18 discussed.

19 MR. ESTEY: Because if you were a wing of  
20 the government department, you would not have that decision  
21 to make; you would be told how much you would have to spend.  
22 That is the point I am trying to get at. Is it a weakness  
23 in the present system that you can decide how much effort  
24 to put into safety by turning the valve down on the expen-  
25 ditures on the safety side and taking a gamble that the  
26 valve won't open up on the assessment side, do you follow me?

27 MR. STANIFORTH: I follow you. We have never  
28 looked at it in that light; in other words, we have never  
29 intentionally held down.

30 THE COMMISSIONER: Let us get at it another







1 way. How many people, Mr. Reeves, do you suppose that you  
2 have in the industry that you are covering, your classifica-  
3 tion?

4 MR. REEVES: I would say it is around 25,000  
5 to 30,000 employees.

6 THE COMMISSIONER: So it would not take an  
7 awful lot of compensation claims to eat up \$160,000 that  
8 you spend on this work?

9 MR. REEVES: No.

10 THE COMMISSIONER: What is your total assess-  
11 ment in the present case, have you any idea? I know it is  
12 \$160,000, your budget -

13 MR. STANIFORTH: You mean the amount paid in  
14 by employers?

15 THE COMMISSIONER: Yes.

16 MR. ESTEY: \$3,400,000 according to Exhibit  
17 18 for the year 1965. Assessment paid in 33million 4,  
18 compensation and medical aid 3 million, and then it goes  
19 across and there is a whole lot of figures which don't add  
20 up to anything and then they end up with a small surplus for  
21 that year.

22 THE COMMISSIONER: So one would assume that  
23 you would be prepared to spend all the money that can use-  
24 fully be spent on accident prevention when you are faced  
25 with that amount of compensation?

26 MR. REEVES: I would say, Mr. Commissioner,  
27 over the years I have been with the Association in develop-  
28 ing our program there has been an increase in our budget  
29 either by the directors or by the Compensation  
30 Board.





1 MR. ESTEY: I was just curious, as you gave  
2 me those figures, to look up the pulp and paper figures,  
3 but I can't find them. Your class is 2. Their rate is not  
4 2. I don't suppose you know what their rate is?

5 MR. REEVES: No.

6 MR. ESTEY: The Association grouping is  
7 group 2 and I just wondered if they are also rated 001.

8 MR. STANIFORTH: All the logging is.

9 MR. ESTEY: Pulp mills are not?

10 MR. STANIFORTH: No.

11 MR. ESTEY: The names might be different  
12 because some pulp mills would not run their own woods opera-  
13 tion, but some do.

14 MR. STANIFORTH: Yes.

15 MR. ESTEY: Anyway, you contributed to the  
16 Board,  $3\frac{1}{2}$  million dollars and you spend on safety \$150  
17 thousand. Now, my question to you is: If an independent  
18 person was deciding how much you would put in and not the  
19 employers, would there be any difference? Would you spend  
20 less on preventive measures and more on insurance, or vice  
21 versa?

22 MR. STANIFORTH: It is very difficult to  
23 answer. The firms, of course, do a lot of it, are spending  
24 a lot on what you might call safety, accident prevention.

25 THE COMMISSIONER: There is a heavy hidden  
26 expenditure which we don't see in this \$160 thousand.

27 MR. STANIFORTH: Yes. Usually, in the  
28 pulp and paper, with a bigger firm, usually they carry on  
29 quite a good accident control and they usually have a direc-  
30 tor of accidents, and I think their results are very good.





1 MR. ESTEY: Mr. Reeves, you may be better  
2 able to answer this. You gave us the rate to be 1, and I  
3 don't know if that would be up at the top.

4 MR. REEVES: For logging it is 001; for  
5 sawmill it is 008.

6 MR. ESTEY: 008. That is \$700 thousand.

7 MR. REEVES: That is sawmilling.

8 MR. ESTEY: So your total assessment is  
9 \$4,100,000.

10 MR. REEVES: You should add in there plywood,  
11 012.

12 MR. ESTEY: So that the total assessment is  
13 4,300,000 against which your safety Association expenditures  
14 net are \$150 thousand. Now, is that reviewed as to whether  
15 or not that is an adequate spin-off to safety and preventive  
16 measures?

17 MR. REEVES: Is that question directed to me?

18 MR. ESTEY: Either one.

19 MR. STANIFORTH: Even now, of course, we  
20 have another man. It is difficult to get the right type.  
21 We are looking forward to expanding it.

22 THE COMMISSIONER: Is it hard to get people  
23 with experience or training to do this safety prevention  
24 work, these people you are sending out as training instruc-  
25 tors?

26 MR. REEVES: We require a special qualifica-  
27 tion for the instructors. They should have experience as  
28 a supervisor in some branch of the forest products industry;  
29 they should have some knowledge of accident control training.  
30 With our particular Association, at least half of our staff







1 must be, presumably, bilingual.

2 THE COMMISSIONER: Have you heard of any  
3 special courses or anything for teaching these people?

4 MR. REEVES: Yes, Mr. Commissioner. We  
5 mentioned that we have brought in outside people to train  
6 instructors, such as Mr. Lawson of Vancouver and so on.

7 THE COMMISSIONER: What are their qualifica-  
8 tions as teachers?

9 MR. REEVES: Well, they are well recognized  
10 in industry generally as being qualified in their particular  
11 field.

12 THE COMMISSIONER: So all of your staff may  
13 have had training from these people?

14 MR. REEVES: Yes, they have.

15 MR. ESTEY: I take it, then, that it is fair  
16 to say that if you did spend more money and you put more  
17 staff into it, it would be in to training?

18 MR. STANIFORTH: Yes.

19 MR. ESTEY: You wouldn't put more money  
20 into television?

21 MR. STANIFORTH: No.

22 MR. ESTEY: There would be more money in  
23 the front line.

24 MR. STANIFORTH: Yes.

25 MR. ESTEY: I see that compensation paid  
26 out comes to \$4,000,000 a year in your classification, and  
27 I presume from what you say that if you had more money  
28 and more suitable trained bodies you could drop that 4  
29 million?

30 MR. STANIFORTH: Well, percentage-wise.





1 If your industry grows --

2 MR. ESTEY: I am talking about percentages.

3 MR. STANIFORTH: Yes.

4 MR. ESTEY: Thank you.

5 THE COMMISSIONER: Thank you, gentlemen.

6 It has been very helpful.

7 MR. ESTEY: The Ontario Medical Association.

8 DR. BERNARD: Dr. Bernard, St. Catharines.

9 We mentioned in our brief some points on preventive measures  
10 which we thought we would like to present and I am here  
11 representing the industrial section of the O.M.A. I might  
12 say that along this line of our thinking in medicine where  
13 prevention has paid off so well, some of these things may  
14 be, from a practical point of view, far fetched in this day  
15 and age, but maybe as time goes on, they will be of some  
16 practical interest.

17 THE COMMISSIONER: Whereabouts in your  
18 brief are you referring to?

19 DR. BERNARD: These are just comments. We  
20 just gave headings in our brief.

21 THE COMMISSIONER: You are talking about  
22 preventive measures, are you?

23 DR. BERNARD: Yes. We recommend that the  
24 Act be amended so that the W.C.B. is empowered to interest  
25 itself in preventative measures. Such preventative services  
26 could be administered by the authority now responsible for  
27 the safety associations.

28 Examples of what we are thinking are:

29 1. Accident Cause Research

30 (a) What happens to the safe, careful worker







1 (or automobile driver for that matter) to cause careless,  
2 sometimes senseless risks to be taken.

3 Emotional upsets, such as worry, anger and  
4 frustration undoubtedly play a part. At times those of us  
5 doing industrial medicine have seen employees injured doing  
6 a job which they have done safely for years, the very day  
7 a member of the family has been seriously ill, et cetera.  
8 Research could establish emotional states and physical con-  
9 ditions which cause a worker to be accident prone.

10 (b) The engineering side --

11 THE COMMISSIONER: You are coming back to  
12 this, are you, or have you said all you are going to say  
13 on that?

14 DR. BERNARD: Basically, yes. Perhaps Mr.  
15 Estey has some questions.

16 THE COMMISSIONER: What do you suggest any-  
17 body could do about emotional accident causes?

18 DR. BERNARD: There are a lot of side things  
19 in this which we doctors see. What makes a man suddenly  
20 become careless? It is investigation and research into the  
21 human being side of it. Now, that is really what we are  
22 thinking there.

23 On the engineering side, research and methods  
24 of making machinery safer, by testing and developing new  
25 safety equipment, guards, lockouts, et cetera, would pre-  
26 vent human suffering and reduce accident costs.

27 A pressing need is research into methods of  
28 reducing the noise produced by production equipment. At  
29 the moment this is usually left to the primary manufacturer,  
30 who is often less concerned with noise than the user of the





1 equipment.

2                   As time goes on, the use of newer methods  
3 and materials could lead to noise reduction in forges, paper  
4 making, tumbling operations and air exhaust systems. We  
5 believe the new synthetics (plastics) could be used increas-  
6 ingly in this area with good results. At present, only the  
7 manufacturer and the largest of those utilizing the equipment  
8 have the facilities and personnel to explore this field.

9                   THE COMMISSIONER:   In other words, you think  
10 that probably excessive noise might, in turn, lead to some  
11 emotional disorder?

12                  DR. BERNARD:   It is causing some industrial  
13 deafness. Aside from this, there is the emotional aspect,  
14 too, working in a noisy environment. We think that some  
15 overall authority to integrate the information, some research  
16 along this line, possibly the safety associations, the Board -  
17 we are not suggesting who should do it, but we think the  
18 Board should be involved in it. The W.C.B. or one of their  
19 branches seal of approval on safety devices would ensure  
20 that the safety dollar was well spent.

21                  THE COMMISSIONER:   I haven't heard you  
22 clearly on the last statement. What is it?

23                  DR. BERNARD:   When they buy a new machine,  
24 in many instances, a lot of them are imported, and in the  
25 larger companies they have trained safety engineers and  
26 they are able to get information from others in the other  
27 divisions, and so on, and there is considerable experience  
28 there. Often they will improve the basic guarding or what-  
29 ever has been built into it. They have the staff and  
30 facilities to do a considerable amount of this. The smaller





1 companies ask advice from various sources. The Department  
2 of Labour inspector will advise them, the safety associations'  
3 advisors will give them advice, but we think that in some  
4 way this could be tied together. The three working together  
5 on these things under common direction would produce quicker  
6 and better results, private industry, the Department of  
7 Labour and safety associations.

8 THE COMMISSIONER: On new machines, you  
9 recommend what?

10 DR. BERNARD: I will expand that a little  
11 further.

12 A W.C.B. operated establishment could gather  
13 information, test methods and materials and coordinate the  
14 ideas of Department of Labour inspectors, safety association  
15 counsellors and safety engineers from private industry.

16 An accident prevention museum contrasting  
17 safe and unsafe methods and equipment, good and poor safety  
18 devices side by side, would be of great benefit to show  
19 industry correct guarding methods, et cetera. This museum  
20 could be used for safety conference displays as well as by  
21 individuals seeking information.

22 We are thinking largely of some way to  
23 coordinate the three different groups who are doing their  
24 best to teach safety and coordinate safety. A little co-  
25 ordination, more of this from the Department of Labour,  
26 safety associations and industry we think could actually  
27 put on the guards, and so on, because a lot of them buy  
28 machines and then re-guard them. They get advice from  
29 various sources, but I think this could be done more  
30 efficiently if they saw the best, what was found to be the







1 best by actual study and experience. This is what we are  
2 thinking there.

3 THE COMMISSIONER: What you are saying is  
4 that you think the Workmen's Compensation Board should set  
5 up some sort of a division, if you want to call it that, to  
6 inspect any new equipment or machinery?

7 DR. BERNARD: To study it, maybe have models  
8 of it, have photographs of good and bad, to warn people what  
9 is the best.

10 THE COMMISSIONER: According to the infor-  
11 mation from the last witness about his particular safety  
12 association, they do, apparently, or did, in connection  
13 with the Loggers Safety Act, sit down with the department  
14 concerned and evolve what they thought was the best system  
15 in connection with the equipment that was being used. As  
16 far as they are concerned, they are doing that now.

17 DR. BERNARD: Yes. I am more familiar with  
18 the machine side of industry, the I.P.A.

19 THE COMMISSIONER: The bigger companies.

20 DR. BERNARD: Yes. We find muffler type  
21 of equipment on machines, tumbling barrels - for instance  
22 tumbling barrels are very noisy and they have experimented  
23 with this, where the castings tumble around.

24 THE COMMISSIONER: You are thinking of a  
25 permanent research department of the W.C.B. to examine all  
26 areas?

27 DR. BERNARD: Yes, particularly where there  
28 are problems. There may be some new nylon type of thing  
29 to line these machines which will be better sound absorbers  
30 than we have at the moment.





1 THE COMMISSIONER: It is a very big order.  
2 There must be so much equipment.

3 DR. BERNARD: Yes. I said when I started  
4 that we are probably dreaming, but I think in the long run  
5 it would prevent all these things that develop, looking  
6 into the causation and accident prevention thing. It is  
7 not related to the teaching side, which is wonderful, which  
8 is being done at the moment. These are the comments relat-  
9 ing to that section of the O.M.A. brief, Mr. Commissioner.

10 MR. ESTEY: Doctor, you are from St.  
11 Catharines?

12 DR. BERNARD: That is right.

13 MR. ESTEY: So you are familiar with the  
14 large industrial type plant where they have hundreds of men  
15 working in connection with foundries, machines, boring lathes  
16 and apparatus, and so on.

17 DR. BERNARD: Yes.

18 MR. ESTEY: So you say that while it is  
19 well to have safety procedures drilled into the men, never-  
20 theless, there are conditions in modern industry which  
21 create hazard.

22 DR. BERNARD: Yes.

23 MR. ESTEY: One of which is noise.

24 DR. BERNARD: Yes.

25 MR. ESTEY: And I suppose the use of back-  
26 ground music is a reflection on that, keeping out the noise?

27 DR. BERNARD: Yes.

28 MR. ESTEY: Another one, you say, is that  
29 if you had something like the Canadian Standards Associa-  
30 tion, only it is the Canadian Safety Association that you







1 had to get a machine invented before you could use it, and  
2 somewhere between the two you compromise. I understand you  
3 are saying two things. One is research into the cause of  
4 accidents which would lay open such things as the noise  
5 element or improper shielding. On the other side of the  
6 coin you think there should be some analytical engineering  
7 to determine whether certain products, certain procedures  
8 are causing accidents. You have two kinds, applied research  
9 and basic research, and you say medical examination of these  
10 victims indicates that there is a need for that type of work.

11 DR. BERNARD: We are thinking more of the  
12 emotional side. What causes a person who usually drives  
13 safely on the highway one day, to stick his neck out so far?

14 MR. ESTEY: You can't do anything about  
15 that; the man was emotionally upset. I got a ticket this  
16 morning because I was in a hurry.

17 THE COMMISSIONER: You don't need research  
18 to tell you that a man's mind isn't on his work because he  
19 has trouble at home. It is outside of the business, it is  
20 something that is happening outside.

21 DR. BERNARD: It is not always outside. It  
22 can be inside, too. But there are also physical things  
23 which we get into. As the time goes on, I think some of  
24 the physical arts of medicine will deal with this. We may  
25 say that a man is not medically fit to do a certain thing.  
26 Perhaps there are some who are not medically fit to drive.

27 THE COMMISSIONER: Fortunately, that doesn't  
28 come into my scope. I am not concerned with what happens  
29 on the highways.

30 MR. ESTEY: Has this idea of a museum been





1 tried somewhere to your knowledge? Is this a procedure  
2 which has been found effective, or do you get that from some  
3 analogy to your practice?

4 DR. BERNARD: It has been discussed by the  
5 industrial section.

6 MR. ESTEY: This would be a portable museum.  
7 It is not like the Hockey Hall of Fame; you take it to the  
8 people who need it?

9 DR. BERNARD: Well, it could be put in a  
10 van. But it could be located near Toronto and the men who  
11 are going to buy new equipment, if they spent a bit of time  
12 looking at these, maybe models, maybe photographs, with  
13 some trained personnel right there to answer questions and  
14 give them advice, he would direct his purchasing along  
15 better lines sometimes.

16 MR. ESTEY: That idea was discussed back in  
17 the Roach Commission.

18 DR. BERNARD: Was it?

19 MR. ESTEY: All this is a method of drama-  
20 tizing the cause of accidents and dramatizing the serious  
21 results of accidents. I think that we understand your  
22 proposals. The last issue that arises in my mind is that  
23 I take it from your brief that your association joins those  
24 who believe that accident prevention should remain under  
25 the Workmen's Compensation Board, that is the associations  
26 should remain linked to the Board and if any change is made  
27 it should be made in the direction of empowering the Board  
28 and/or the associations to establish their own safety regu-  
29 lations and perhaps the enforcement of them.

30 DR. BERNARD: Yes.





1 MR. ESTEY: Thank you, doctor.

2 DR. BERNARD: Thank you, sir.

3 THE COMMISSIONER: We will adjourn for ten  
4 minutes.

5 ---Short recess.

6  
7 MR. ESTEY: Mr. Commissioner, we now pro-  
8 ceed to the brief of the Ontario Mining Association on this  
9 subject.

10 MR. BUCKLE: My name is Frank Buckle. I am  
11 a former Director and Past-President of the Mines  
12 Accident Prevention Association and also, Past-President  
13 and Director of the Ontario Mining Association. Until very  
14 recently I was General Manager of Wright Hargrave Lakeshore  
15 Mines of Kirkland Lake.

16 Our submission today is entitled Supplementary  
17 Brief No. 2. and if I may, I would like to read three or  
18 four paragraphs from our original submission of, I think,  
19 August the 16th, by way of introducing what we have to say  
20 today.

21 On page 8 of the original brief, under Safety  
22 Associations:

23 The authority for the formation of a safety  
24 association is provided in Section 117 of the Act. The Mines  
25 Accident Prevention Association of Ontario is the safety  
26 association for those employers in Class 5, and has been  
27 covered by the provisions of the Act since 1947. Prior to  
28 that time there was a similar type of organization known as  
29 Class 5 Accident Prevention Association which was incorpor-  
30 ated in 1930.







1                   The Mines Accident Prevention Association of  
2 Ontario has a Board of thirteen directors elected from the  
3 membership at each annual meeting. The directors are all  
4 men of broad mining experience who hold responsible positions  
5 with the industry and who meet regularly on the affairs of  
6 their Association. With the exception of the Executive  
7 Director they receive no monetary benefit from the position  
8 of director.

9                   The Ontario Mining Association and the Mines  
10 Accident Prevention Association of Ontario have worked co-  
11 operatively to reduce the incidence of accidents and their  
12 activities have been complementary. The Mines Accident  
13 Prevention Association of Ontario conducts active education  
14 and training programs at the supervisory level and this  
15 knowledge is applied in operations as an integral part of the  
16 work assignments, or in the planning and development of  
17 mining facilities.

18                   I now proceed to the reading of our supple-  
19 mentary brief.

20 Accident Prevention Associations

21                   Over the years the Mines Accident Prevention  
22 Association has worked closely with the Ontario Mining Assoc-  
23 iation in providing an educational and counselling service  
24 to its members in matters relating to safety and mine ventila-  
25 tion. The effectiveness of this service is difficult to  
26 assess, because on-the-jobsafety is administered by the  
27 employer, and many factors, along with education, bear on  
28 each work situation. However, if the cumulative experience  
29 of the individual employers is taken as an index, the pro-  
30 gressive decrease in the incidence of fatalities per million





1 man hours worked, and as shown in the accompanying graph,  
2 and this graph is attached to the brief, indicates that the  
3 industry as a whole has improved its safety practices, and  
4 the decrease in the incidence of silicosis, as outlined in  
5 a previous submission, indicates that much has been accomp-  
6 lished in the fields of ventilation and dust control. Despite  
7 this progress, the industry is well aware that further im-  
8 provement is required and it can give assurances that its  
9 efforts have not slackened.

10           The Directors of the Ontario Mining Associa-  
11 tion believe that the function of education cannot be  
12 combined with the function of enforcement. Such combination  
13 would curtail the acceptability of Mines Accident Prevention  
14 Association staff to its members and hamper its ability to  
15 offer constructive educational comment or advice.

16           It is the opinion of the Directors of the  
17 Ontario Mining Association that if the duties or control of  
18 the Mines Accident Prevention Association were to be altered  
19 to the extent that the purpose for which it was organized  
20 would not be served, the Ontario Mining Association would  
21 consider creating and financing a body to continue the  
22 functions and the activities of the Directors and Staff of  
23 the Mines Accident Prevention Association in education in  
24 mine safety and mine ventilation.

25           All of which is respectfully submitted.

26           THE COMMISSIONER:   Let us look at your  
27 graph. The graph shows quite an impressive record and we  
28 have already heard about it in connection with silicosis,  
29 that the reduction has been very substantial. I am not  
30 just sure about the last paragraph. Again I would ask you,











1 what have you in mind when you say that the duties and con-  
2 trol were to be altered to the extent that the purpose for  
3 which it was organized would not be served?

4 MR. BUCKLE: Well, we feel that the Associa-  
5 tion is of enormous value to the industry and we would not  
6 like to see its functions curtailed or altered to any  
7 material extent.

8 THE COMMISSIONER: You feel it should oper-  
9 ate as it is doing at present, under the supervision of  
10 the Board to the extent that it is now under supervision  
11 of the Board and not elsewhere?

12 MR. BUCKLE: Yes, Mr. Commissioner, and  
13 the reason I say that is that the Directors of the Mines  
14 Accident Prevention Association are nearly all professional  
15 engineers and collectively they have had a tremendous amount  
16 of practical experience in the operating of mines. The  
17 permanent staff of the organization, the Mines Accident  
18 Prevention Association of seven, five are professional  
19 engineers, there are two technicians. So that we have  
20 professional management through the Directors and also  
21 professional application of policies through the Association.

22 MR. ESTEY: Mr. Buckle, I take it from all  
23 we have heard there are really two issues involved here.  
24 One of them is whether or not this safety association  
25 animal will be moved from the Compensation Board arena to  
26 the Department of Labour and, in some cases, Mines, in your  
27 case, I suppose; and the second issue is whether or not the  
28 safety associations can hit their target area with more  
29 impact if they had labour representation in the association.  
30 I take it, on the first point it is very clear in your mind







1 that this voluntary association of experienced employers can  
2 do a better job educating the men employed in the mines and  
3 the supervisors of the mines on safety than they could if  
4 you were a wing of the government.

5 MR. BUCKLE: Yes, that is my point.

6 MR. ESTEY: The second point as I understand  
7 you, is that the present method of operating the safety  
8 association is getting good results and I take it you don't  
9 think it would advance the interests of the association or  
10 the community to change its membership.

11 MR. BUCKLE: I think not. I would like to  
12 see it maintained on a professional basis where it is now.

13 THE COMMISSIONER: What about on the plant  
14 level? There are safety committees, I suppose, at the  
15 plant level?

16 MR. BUCKLE: Yes, some mines do have joint  
17 labour-management safety groups at the plant level.

18 THE COMMISSIONER: Do they include a labour  
19 representative?

20 MR. BUCKLE: Some, I think, do, yes.

21 THE COMMISSIONER: Not all?

22 MR. BUCKLE: I know of two that do. There  
23 may be others. That is at the plant level and my personal  
24 feeling is that management in the mining operation can be  
25 assisted by this method.

26 MR. ESTEY: What about the association level?  
27 Do you think that the production of, let us use a neutral  
28 word, workers' representative would increase the effective-  
29 ness of the Mining Association, the Mining Accident Preven-  
30 tion Association?







1 MR. BUCKLE: No, I think it is our feeling  
2 that it would not. I think we would prefer to keep it on a  
3 professional basis.

4 MR. ESTEY: I would take it that the Mines  
5 Accident Prevention Association deals with not only the  
6 mines' underground operations but the mining companies' mill  
7 operations, smelting operations?

8 MR. BUCKLE: Right.

9 MR. ESTEY: That the whole business of  
10 extracting the ore and turning it into metal is covered by  
11 the Mines Accident Prevention Association of Ontario?

12 MR. BUCKLE: That is correct.

13 MR. ESTEY: For which you have a budget  
14 of \$130 thousand in 1965. Can you tell us how that relates  
15 to the assessments paid by the component employers to the  
16 Board? I take it that the serial number 5, rates 508 to  
17 501.

18 MR. BUCKLE: In the first place, I do not  
19 think it is fair to say that we spend through the Mines  
20 Accident Prevention Association 140 thousand. Certainly  
21 more money is spent collectively by individual mining  
22 companies to further their own accident prevention programs.  
23 I feel that considerably more money is spent by the member  
24 mining companies on their own programs than is spent col-  
25 lectively by the Association.

26 MR. ESTEY: But the only yardstick I was  
27 trying to get at, to start with, was that which is funnelled  
28 through the Accident Prevention Association, that is their  
29 budget?

30 MR. BUCKLE: Yes.





1 MR. ESTEY: Now the mining companies who  
2 fall into the area covered by the Mines Accident Prevention  
3 Association, I take it, pay into the Board fund under class  
4 5, the assessments under rates starting with 069 and deal-  
5 ing with mining and they run right through to 972 and I  
6 don't suppose you can tell us offhand, how much the industry  
7 pays by way of assessment?

8 MR. BUCKLE: I don't think so. Mr. Perry  
9 or Mr. McIntosh may have that.

10 MR. McINTOSH: The mining rate numbers are  
11 069 through to 109 and 940. The other rate numbers you  
12 referred to are silicosis counts, not the accident counts.

13 MR. ESTEY: Well, taking those out, you pay  
14 in about \$5 million - somewhere around \$5 million is your  
15 annual assessment. Your claims pay-outs are somewhere  
16 around \$6 million, \$5½ to \$6 million and I take it from our  
17 discussion with the last association that you think the  
18 ratio of money spent through the association to the moneys  
19 paid in on assessment, is in line and that your results  
20 are justified in spending that level of money through the  
21 association.

22 MR. BUCKLE: Yes, I think if the Directors  
23 felt that, say, the addition of another engineer to the  
24 permanent staff might have beneficial results that such  
25 action would be adopted.

26 MR. ESTEY: Could you tell us how much  
27 permanent staff the Mines Accident Prevention Association  
28 has?

29 MR. BUCKLE: They have seven, of whom five  
30 are professional engineers and there are two technicians.







1 MR. ESTEY: And they perform roughly the  
2 same duties as the other accident field men in that it is  
3 educational primarily?

4 MR. BUCKLE: Primarily educational and  
5 training. In addition to that permanent staff in the Mines  
6 Accident Prevention Association, I should mention too, the  
7 local safety groups, as we call them. I think we have in  
8 Ontario, nine local safety groups and four ventilation  
9 groups. Each of those groups is an autonomous organization  
10 in certain localities where there are a group of mines  
11 located and the membership of those groups is drawn largely  
12 from the safety engineers or the safety directors of the  
13 mines in that particular area. Most of the groups meet  
14 monthly, some of the less active ones quarterly, and their  
15 main function is the investigation of all compensable acci-  
16 dents which have occurred since they last met.

17 They are very meticulous in examination and  
18 investigation for the reason and cause of these accidents.  
19 In addition to the members I mentioned attending those  
20 meetings, they are almost invariably attended too by one  
21 of the engineers of the Mines Accident Prevention Associa-  
22 tion, of our staff and also by invitation, one or two local  
23 mine managers are also invited to those meetings. We all  
24 feel that those local safety groups are doing an excellent  
25 job.

26 MR. ESTEY: They are part of the Accident  
27 Prevention Association?

28 MR. BUCKLE: Not part of it, they are  
29 encouraged by the Mines Accident Prevention Association  
30 and assisted in the techniques of education and training





1 and, as I say, they are attended by one of the engineers of  
2 the M.A.P.A.

3 MR. ESTEY: They are not part of the Associa-  
4 tion?

5 MR. BUCKLE: No.

6 MR. ESTEY: How are they organized, is it  
7 a permanent organization?

8 MR. BUCKLE: They are permanent, they have  
9 been in existence for a great many years, they are voluntary  
10 organizations, I suppose you would class them as a voluntary  
11 organization formed by a local group of mines.

12 MR. ESTEY: I don't want, Mr. Buckle, to  
13 ask you a series of questions about the Accident Prevention  
14 Association - I take it you are here to speak for the Ontario  
15 Mining Association, but I would like to know, though, whether  
16 in general there is in the mining industry, the same kind  
17 of liaison with the Workmen's Compensation Board as is  
18 maintained as we heard in the forestry industry, but par-  
19 ticularly, do you receive the statistical reports on the  
20 accidents and the accident reports themselves and do you  
21 send them on out to these area groups for reports?

22 MR. BUCKLE: Yes, we do and I think one of  
23 the most important functions of the M.A.P.A. is the monthly  
24 report they send to all member companies, listing the stat-  
25 istics of compensable accidents received from the Workmen's  
26 Compensation Board. In addition to that they have a number  
27 of men involved in each mining operation and the number of  
28 man hours worked. So we are able to work out each month  
29 the accident frequency rate for each company, each mining  
30 company in the province and they are also classed as groups,





1 for example, the gold mine group is separate from the nickel  
2 group, et cetera.

3 I know, as Mine Manager, that I have got a  
4 lot of use out of these monthly statistics. It helps you  
5 see just where you stand with respect to your own group  
6 of mines both in the metal group and also in the gold group.  
7 We have one of these here if you wish to have one filed as  
8 an Exhibit.

9 MR. ESTEY: Yes, we would.

10 MR. BUCKLE: January to August, 1966.

11 EXHIBIT NO. 31: Monthly statistics:  
12 January to August 1966.

13

14

15 MR. ESTEY: This is made up, Mr. Buckle,  
16 from the information which has come to you from the Workmen's  
17 Compensation Board?

18 MR. BUCKLE: Yes, and from the member  
19 companies.

20 MR. ESTEY: And from the member companies?

21 MR. BUCKLE: And from the member companies  
22 They supply the information on the number of men involved  
23 and so on.

24 MR. ESTEY: Who actually puts this together,  
25 the Association?

26 MR. BUCKLE: Yes, Mr. McIntosh is the man  
27 who puts it together.

28 THE COMMISSIONER: Accident Prevention,  
29 Mines Accident Prevention Association?

30 MR. BUCKLE: Yes.







1 MR. ESTEY: Then is this sent out to those  
2 area groups that you spoke of a moment ago?

3 MR. BUCKLE: Every member company gets a  
4 copy of that. I don't think it goes specifically to the  
5 local groups.

6 MR. McINTOSH: The area groups do get copies,  
7 yes.

8 MR. ESTEY: So the people attending the  
9 meetings would have the benefit of this anyway?

10 MR. BUCKLE: Yes.

11 MR. ESTEY: Just looking at the first line,  
12 the group 1, Porcupine Hollnor, man hours 305.2. What  
13 does that mean?

14 MR. McINTOSH: 305,200.

15 MR. ESTEY: That is man hours worked in  
16 that month in that mine?

17 MR. McINTOSH: No, that is work to date  
18 from the beginning of the year.

19 MR. BUCKLE: January to September.

20 MR. ESTEY: I am sorry. Then the average  
21 number of men is the number of people working?

22 MR. BUCKLE: Yes.

23 MR. ESTEY: There are no accidents in  
24 September and that Hollnor mine had no accidents in the  
25 nine prior months. Then the date 3, what does that mean?

26 MR. BUCKLE: Well sometimes there is a  
27 little delay in reporting an accident if it happens near  
28 the end of the month. A claim may be in the mails and is  
29 not reported until the following month. I think that is  
30 the main reason for that column headed "Prior Months",





1 claims that were unreported at the dates these statistics  
2 were compiled.

3 MR. ESTEY: In any event there would be  
4 three compensable injuries in the Hollnor mine so far in  
5 1966, I take it?

6 MR. BUCKLE: That is correct.

7 THE COMMISSIONER: I don't know what you  
8 are reading that I am not following.

9 MR. McINTOSH: There should be three copies  
10 of each. One is frequency rates and the other costs.

11 MR. ESTEY: So that moving across that  
12 column to the right we come to the compensable injuries  
13 per one million man hours and to date, in 1966, the rate  
14 is ten injuries to a million man hours, that is what that  
15 column means?

16 MR. BUCKLE: That is correct.

17 MR. ESTEY: And for the whole of the year  
18 1965 it was 35?

19 MR. BUCKLE: That is right.

20 MR. ESTEY: So the total for that Porcu-  
21 pine area - is that Porcupine area?

22 MR. BUCKLE: That is the Porcupine district.

23 MR. ESTEY: The total is down from 41 to  
24 29 so far?

25 MR. BUCKLE: That is correct.

26 MR. ESTEY: And then this is done by  
27 districts and then the whole of those districts are com-  
28 bined on the Northwest Ontario basis?

29 MR. BUCKLE: No, that is a separate group.  
30 We have two groups on page one - total Porcupine, total







1 Kirkland-Larder, and total Northwest Ontario and then total  
2 gold mines in the province.

3 MR. ESTEY: And then over on the page you  
4 have got silver mines, diamond drillers.

5 MR. BUCKLE: Nickel mines.

6 MR. ESTEY: Yes, iron mines and then over  
7 on the next page, which is page 3, you have contractors.  
8 What would that group include?

9 MR. BUCKLE: They are all the mine contrac-  
10 tors and most of the work they do is shaft sinking jobs.  
11 In recent years there has been very much more lateral work  
12 done by contractors, on the job work.

13 MR. ESTEY: And then you deal with treat-  
14 ment plants, uranium and miscellaneous metals.

15 MR. BUCKLE: Yes.

16 MR. ESTEY: I was just wondering if some-  
17 where you bring everything together and show a provincial  
18 total, I don't see that.

19 MR. McINTOSH: It says, "total of group 1"  
20 on page four.

21 MR. ESTEY: To date it is the same number  
22 so the rate is running along at the same.

23 MR. BUCKLE: That is right.

24 MR. ESTEY: Then down below that the tall-  
25 ies are dealt with separately for compensable injuries.

26 MR. BUCKLE: Yes.

27 MR. ESTEY: Can you tell me, before we  
28 proceed further into this area, do the mining regulations  
29 of the Department of Mines apply only to the underground  
30 operations or to both the underground and to the mill?





1 MR. BUCKLE: Underground and mill.

2 MR. ESTEY: Does the Department of Labour  
3 apply to any of the operations in the mines?

4 MR. BUCKLE: I think it applies now to  
5 heating plants, boilers, on the mine property. I think  
6 until recently, inspection of those plants was done by the  
7 inspectors of the Department of Mines for the Department of  
8 Labour but I think that has changed now: I am not quite  
9 sure of that point.

10 MR. ESTEY: In the safety staff's operations  
11 do the instructions or lecture meetings or whatever one  
12 could describe them as, relate to both the underground  
13 operations and to the mill operations?

14 MR. BUCKLE: Yes.

15 MR. ESTEY: And these professional engin-  
16 eers whom you have on this work, conduct these meetings  
17 and seminars with the foremen, the supervisory personnel,  
18 on a continuous basis moving from plant to plant and mine  
19 to mine?

20 MR. BUCKLE: You might call it a continuous  
21 basis, yes.

22 MR. ESTEY: How frequently would they  
23 attend at a mine in the ordinary course of operations?

24 MR. BUCKLE: Well I think that is a fact  
25 related to the individual mine; conditions vary much from  
26 one mining operation to another. Some mines might feel  
27 they need a little more attention to training and educa-  
28 tion by the engineers of the M.A.P.A. It is difficult to  
29 say what the overall period of rotation might be. I think  
30 Mr. Perry might like to add one or two remarks to what I





1 have said.

2 MR. PERRY: As Mr. Buckle said, by the  
3 nature of the various mines and operations it is rather  
4 difficult to say that you visit so many places so often.  
5 Actually, there are 65 operating mines in the province and  
6 although there are something over 500 companies represented  
7 in class 5 in the compensation as class 5, the important  
8 point, I think, is that of the 65 operating companies, they  
9 employ 97 per cent of the people in the industry so that the  
10 remaining 400 odd companies only employ 3 per cent so that  
11 in our visiting the various mines and operations, we have  
12 contact with the companies which represent 97 per cent of  
13 the people employed in them. Generally speaking, last year  
14 they made something like around 87 or 89 visits to the 65  
15 companies so that you can see that we got around to them  
16 in something less than once a year.

17 MR. ESTEY: Once or twice.

18 MR. PERRY: Yes. As Mr. Buckle mentioned,  
19 we lay out a program of trying to go to every mine once a  
20 year. We do adjust this at the request of the mine. If a  
21 mine asks us to visit them and put on a course, we do  
22 something to help out and we will alter our program to  
23 accommodate them.

24 MR. ESTEY: Thank you. I would like to ask  
25 Mr. Buckle something which is unrelated to that, but which  
26 I want to trace through to safety. We heard a while ago  
27 about the introduction of a new type of underground machine  
28 for drilling holes in a rock face preliminary to blasting  
29 and they replaced the machine with what was called a ley-  
30 ner, and they did not give the name of the new machine,







1 but it hammers the star driller, or whatever it is, into  
2 the face of the rock with compressed air. What I would  
3 like to know is this: When that kind of a change takes  
4 place in the industry, does your Mines Accident Prevention  
5 Association have anything to do with the formulation of  
6 the procedures for handling that machine and the safety  
7 regulations in connection with it, or does that kind of  
8 regulation simply come down from the Department of Mines  
9 or the C.S.A., or what happens?

10 MR. BUCKLE: Well, I think from the Depart-  
11 ment of Mines. Probably a more apt illustration would be  
12 the use of ammonium nitrate combined with fuel for explo-  
13 sions which came in a few years ago. Those new explosives  
14 are becoming more widely used in the industry both for  
15 underground and surface blasting operations. The fact of  
16 a change in the type of explosive used from the old dyna-  
17 mite base to the present ammonium nitrate and fuel oil  
18 mixtures, did require changes in procedures and those, I  
19 think, largely stemmed from the Department of Mines in  
20 the institution of new regulations for the handling of  
21 that different type of explosive. That is probably a  
22 little more apt case than what you mentioned, a change of  
23 machines.

24 I think any change in equipment or tech-  
25 niques which implied, say, an increased hazard, would, I  
26 think, be covered by amended regulations, by the Depart-  
27 ment of Mines.

28 MR. ESTEY: How does that come out in  
29 practice? Does the Department of Mines consult with the  
30 safety association about how this machine should be handled





1 or this procedure should be handled?

2 MR. BUCKLE: In most instances I think  
3 they would. They might, in fact, get a lead or some  
4 recommendation covering it from the Mining Association.  
5 They might suggest a change in regulations.

6 MR. ESTEY: I presume the same type of  
7 liaison exists in your industry with the Department of  
8 Health in connection with ventilation problems and fumes  
9 in the smelters, health hazards which would be the subject  
10 of environmental research of some kind? Do you have that  
11 same liaison as you have with the Department of Mines?

12 MR. BUCKLE: I think that liaison is  
13 developing. You touch on the matter of pollution there.  
14 I think Mr. Perry might be able to answer that question.  
15 It is a comparatively new one.

16 MR. PERRY: May I check that? There is a  
17 very close relationship between the work of the Mines  
18 Accident Prevention Association and the Ontario Mining  
19 Association. Generally speaking the rules on changing  
20 mining rules, any comment relating to it is handled by  
21 the Ontario Mining Association who have a committee for  
22 that purpose. The Mines Accident Prevention Association  
23 keeps regular tabs on these things.

24 MR. ESTEY: The two associations, are they  
25 closely allied? And of course the same people are in both.

26 MR. PERRY: That is right.

27 MR. ESTEY: My question is, having discussed  
28 with Mr. Buckle the relationship between those two indus-  
29 trial associations and the Department of Mines, I wanted  
30 to know whether there is the same kind of relationship







1 between those industrial associations and the Department  
2 of Health?

3 MR. PERRY: Yes.

4 MR. ESTEY: In connection with the working  
5 conditions underground and above ground?

6 MR. PERRY: We keep very close touch with  
7 the Department of Health and with Dr. Sutherland.

8 MR. ESTEY: All of which leads me to a  
9 similar line of questions, and I will be much briefer with  
10 you because you heard the forestry discussions. In which  
11 direction is this thing moving? Are you closer to the  
12 Workmen's Compensation Board in the safety association  
13 work and in the working out of regulations in connection  
14 with that, or are you closer to the Department of Mines'  
15 Regulatory Division?

16 MR. PERRY: Actually, I think from a  
17 practical point of view, we are closer to the Department  
18 of Mines. But as far as the regulatory aspect of it is  
19 concerned, we are completely clear of any of that. All we  
20 do is education and training.

21 MR. ESTEY: But I take it you regularly  
22 give comments to the Department of Mines if you don't like  
23 the regulations or think they should be refined?

24 MR. PERRY: I would not want to say that  
25 we regularly do. I can't think of any occasion when we  
26 have done it as a Mines Accident Prevention Association.  
27 In the Ontario Mining Association we have, because this is  
28 policy.

29 MR. ESTEY: Do the Department of Mines have  
30 a representative on that Accident Prevention Association?





1 MR. PERRY: No. You mean on the Board of  
2 Directors?

3 MR. ESTEY: Yes.

4 MR. PERRY: No.

5 MR. ESTEY: I take it it would not serve  
6 any useful purpose.

7 MR. PERRY: I don't think so. I don't think  
8 they would want to be on it.

9 MR. ESTEY: They would not want to be  
10 responsible for it.

11 MR. PERRY: No. I think it would be unfair  
12 to ask them.

13 MR. ESTEY: Well, as far as the Department  
14 of Health is concerned, your position there is the same,  
15 I take it, as any other employee for any other industry  
16 employing people under circumstances where these fumes  
17 occur and where ventilation issues arise?

18 MR. PERRY: Yes.

19 MR. ESTEY: Well, I think it is almost  
20 closer than that because this is a little divorced from  
21 the Accident Prevention Association but the Ontario Mining  
22 Association does have a committee on which these people  
23 from the Department of Mines and the Department of Health  
24 and Workmen's Compensation Board discuss all these problems  
25 so that we have some way of everybody who is concerned  
26 with the particular aspect of it has the opportunity to  
27 express the view relating to it so that if any action is  
28 required, each knows what the other is going to do. It is  
29 an informal arrangement.

30 MR. ESTEY: It is an informal committee on





1 which all four of those organizations are represented.

2 MR. PERRY: Yes.

3 MR. ESTEY: One last line of questions to  
4 either of your gentlemen. When you introduce new machinery  
5 into a mine, do you have to get a permit for that from the  
6 Department of Mines?

7 MR. BUCKLE: No.

8 MR. ESTEY: And if it requires some kind  
9 of safety regulation, how does that come about?

10 MR. BUCKLE: A hoist, for instance, there is  
11 quite a rigid inspection on the hoist.

12 MR. ESTEY: Who is it done by?

13 MR. BUCKLE: By the Department of Mines.

14 MR. ESTEY: Not the Department of Labour?

15 MR. BUCKLE: Mining hoists are under The  
16 Mining Act.

17 MR. ESTEY: If there is a hoist used on  
18 the surface, it is under the Department of Labour; if it  
19 is underground, it is under the Department of Mines?

20 MR. PERRY: Yes.

21 MR. BUCKLE: As long as it complies with  
22 the existing regulations.

23 MR. ESTEY: Thank you very much, gentlemen.

24 Mr. Commissioner, we have the Mines Depart-  
25 ment, Mr. R.L. Smith present, and Mr. Smith will discuss  
26 with the Commissioner the role played by the Department of  
27 Mines in this accident prevention, safety question, gener-  
28 ally.

29 Mr. Smith, I believe you are a professional  
30 engineer?







1 MR. SMITH: That is correct.

2 MR. ESTEY: You might tell the Commissioner  
3 how long you have been in the Mining Department, what your  
4 qualifications are.

5 MR. SMITH: I graduated in 1935 as a Mining  
6 Engineer, a BSc in Mining. I became a professional engin-  
7 eer in roughly five years. During that period I was work-  
8 ing with International Nickel, from 1935 to 1940, to the  
9 start of 1941, at which time I came with the Ontario Depart-  
10 ment of Mines, being employed continuously as a District  
11 Engineer and now as the Chief Engineer of Mines.

12 To go back a little on the historical back-  
13 ground of the Department of Mines which may be of interest  
14 at this time, in the early 1890's it was really a segment  
15 of the Bureau of Lands and Mines. This was because of  
16 there being very little mining at that particular time,  
17 very few gold mines. Land usage was used both by mining  
18 companies and our first speaker in regard to forest products,  
19 but as the mining industry grew, it could see that this  
20 function could not be carried together as one bureau or  
21 one department. So the Department of Mines was broken  
22 away from the Department of Lands and Forests. Actually  
23 there is a lot of work which goes on between the Department  
24 of Mines and the Department of Lands and Forests in that  
25 we are both using the same lands. We are married in this  
26 way, that there is an intercommunication going on continu-  
27 ally between the Department of Mines and the Department of  
28 Lands and Forests with regard to land usage. I only point  
29 that out to show that here is a natural cooperative effort.

30 That work is covered by another Act or





1 section of the Act, that is the Mining Lands branch. Now,  
2 this section of The Mining Act, is only on the requirements  
3 governing the operations of mines. These are the safety  
4 regulations that are concerned with the health and safety  
5 of the miner or the employee of the mines. It covers the  
6 phase from underground operations. Now, we should define  
7 underground operations, because you gentlemen know that  
8 sewer work and hydro electric work requires tunnels. This  
9 is under the jurisdiction of the Department of Labour.  
10 The definition of a mine is to extract mineral economically.  
11 In other words, we want the gold; we don't want the hole  
12 in the ground which they want in the Department of Labour  
13 for a tunnel or a sewer or water works. The Department of  
14 Mines looks after the mineral that is mined to the point of  
15 manufacturer. As an example, we will extract the iron ore,  
16 we will take it right through to the end of the blast fur-  
17 nace where pig iron is formed, and thereafter the jurisdic-  
18 tion is that of the Department of Labour. So in this  
19 section of the Act, we are in close cooperation with the  
20 Department of Labour. We do have Acts which cross each  
21 other, and through Mr. Gibson's section, the Department of  
22 Labour, we do cooperate on the administration of the Acts  
23 that are applicable to the different sections of the mine.  
24 I believe the Ontario Mining Association brief just formally  
25 mentioned boilers and compressors. This is under the  
26 jurisdiction of the Department of Labour, but rather than  
27 have their inspectors come in, our engineers do the inspec-  
28 tions.

29 Very briefly, on our staff we have 23 engin-  
30 eers working, including myself, with the Department of Mines,







1 and they are spread from Kenora right across the province,  
2 down into southeastern Ontario. Certain of these engineers  
3 are electrical or mechanical engineers. They are all  
4 professional engineers of Ontario; they have all had a  
5 minimum of five years practical experience before we accept  
6 them.

7           In regard to new equipment coming in, we  
8 had the mention of ammonium nitrate and fuel oil. Our  
9 practice in bringing in a new hoist which possibly hadn't  
10 operated before in the province - I am speaking now of a  
11 friction drive hoist or a new blasting agent - what we do  
12 is search the literature of foreign countries to see where  
13 these items have been used and we obtain their legislation  
14 in regard to the use of these particular items. We then  
15 develop a code - we don't put it in the Mining Act - we  
16 develop a code so that our engineers know the code. In  
17 other words, we permit this piece of equipment to be used  
18 under a code, and we operate in this particular way for  
19 some years to get experience in this particular piece of  
20 equipment, and we add or detract from the original code.  
21 After we have gained operating experience and have a fairly  
22 good idea of the hazards that may be introduced by this  
23 piece of equipment, we then have it put into the section  
24 of the Mining Act which is appropriate.

25           Gentlemen, this is a very quick, hurried  
26 run-through. If there are any specific points that anyone  
27 would like to bring out -

28           THE COMMISSIONER: We are interested in  
29 your liaison with these accident prevention associations,  
30 the Mines Accident Prevention Association, and the matter





1 of any equipment. Do you consult with their inspectors,  
2 or their engineers as to safety measures on these regula-  
3 tions that you put into effect?

4 MR. SMITH: Mr. Commissioner, I really think  
5 that with having a district engineer located in an area -  
6 let's say for argument's sake, in Sudbury we have two en-  
7 gineers, we have two mining engineers and one electrical  
8 engineer. These men are visiting the mines in the area  
9 continually in the administration of the Act. This is a  
10 little different from an accident prevention association.  
11 Our job is only the administration of the Act as it is  
12 written.

13 THE COMMISSIONER: You have in there certain  
14 measures in connection with equipment in the mine which  
15 are designed for safety, and the reasons.

16 MR. SMITH: That is right, sir.

17 THE COMMISSIONER: I was wondering if you  
18 had any other means you adopt when drafting those regula-  
19 tions. Is there any liaison with these other people who  
20 are also visiting the mines and learning whether they have  
21 any suggestions to make in connection with them?

22 MR. SMITH: The liaison is not with the  
23 Accident Prevention Association, it is with the Ontario  
24 Mining Association.

25 THE COMMISSIONER: I see. You have it  
26 with them?

27 MR. SMITH: Very much so, continually.

28 THE COMMISSIONER: Well, we have been told  
29 there is a very close relationship between them, the Ontario  
30 Mining Association and the Accident Prevention Association.





1 MR. SMITH: A sort of a triangle.

2 MR. ESTEY: I am not too clear on how this  
3 whole business fits into the mining. I take it a mine is  
4 basically under the jurisdiction of the Department of Mines  
5 and, with exceptions which I will come to, it is controlled  
6 under the Mining Act.

7 MR. SMITH: Yes.

8 MR. ESTEY: I presume Ontario Hydro regu-  
9 lates the use of hydro in the mine.

10 MR. SMITH: They don't. Their jurisdiction  
11 stops at the transformer coming into the property.

12 MR. ESTEY: And the boilers, you have  
13 explained that there is an interlocking there, but, in  
14 fact, your people carry out the physical examinations.

15 MR. SMITH: Yes, in cooperation with the  
16 Department of Labour.

17 MR. ESTEY: I take it the use of natural  
18 gas in the smelters and refining processes - I don't suppose  
19 you use it underground - that that also falls under the  
20 Department of Mines once you get to the valve at the pro-  
21 perty.

22 MR. SMITH: Yes, but it depends on the  
23 type of equipment. We can't take a piece of junk and put  
24 it on the mining property and say that Energy and Resources  
25 must not look at it. We cooperate with them. Where a  
26 mine may purchase a piece of equipment that is using  
27 propane gas, this is one item that can be brought in as a  
28 package item from the States and be installed in the mine  
29 without the knowledge of the Department of Energy and  
30 Resources. We make certain it is not installed until







1 Energy and Resources have seen it. If it is an appliance  
2 that is purchased in Ontario, which most of them are, for  
3 use with natural gas, this goes through Energy and Resources  
4 approval before it goes on, so there is a slight difference.

5 MR. ESTEY: The analogy with hydro is a  
6 little different than with gas.

7 MR. SMITH: Yes.

8 MR. ESTEY: Coming to the Department of  
9 Health, I take it, there again, there is liaison or inter-  
10 relation between your regulations pertaining to mine opera-  
11 tions and those of the Department of Health, that the  
12 environmental research agencies of the Department of Health  
13 are consulted regularly by your Department.

14 MR. SMITH: Yes, this is correct. We are  
15 in consultation frequently with them for dust in smelters.  
16 Where they have changed a piece of equipment in one of the  
17 plants, the district engineer would like to have one of the  
18 members of Dr. Sutherland's group come out and take a look,  
19 maybe take some readings and guide him. These men are not  
20 trained as the men are trained in industrial hygiene. They  
21 are specialists, and we lean very heavily on industrial  
22 hygiene.

23 MR. ESTEY: I take it regulations pertaining  
24 to ventilation requirements and atmospheric conditions in  
25 the mine are those of the Department of Mines.

26 MR. SMITH: That is right. We are guided  
27 by the information that the Department of Health gives us.

28 MR. ESTEY: For example, the operation of  
29 an internal combustion engine below the ground would be  
30 regulated by your regulations and not by the Department of





1 Health or the Department of Labour.

2 MR. SMITH: This is correct.

3 MR. ESTEY: As to the Workmen's Compensa-  
4 tion Board, you may have some kind of relationship with the  
5 Board at least so far as refining and adapting your regu-  
6 lations are concerned, if you are aware that there is a  
7 rising incidence of accidents in some part of the mining  
8 operation.

9 MR. SMITH: Oh, definitely so. We are  
10 following the statistics. As was shown by the Mines  
11 Accident Prevention Association, we obtain copies of that  
12 monthly.

13 MR. ESTEY: Where do you get it from?

14 MR. SMITH: From the O.M.A. These are  
15 studied carefully. Together with this, we are informed  
16 on this form 25A.

17 MR. ESTEY: From the Board?

18 MR. SMITH: From the Workmen's Compensation  
19 Board.

20 MR. ESTEY: You get that directly from the  
21 Board?

22 MR. SMITH: We get it directly. We insist  
23 that the mine in the district gives the district engineer  
24 a copy of Form 7, that is the report of the accident on  
25 the blue form. Now, in addition we send him one of the  
26 copies of form 25A that he will pin to the form 7 so that  
27 he makes sure that the industry has given him a copy of  
28 form 7. Now, we investigate accidents which are violations  
29 of the Mining Act.

30 MR. ESTEY: First of all, you see the







1 accident claims.

2 MR. SMITH: We see that our district engin-  
3 eer examines the accident claims.

4 MR. ESTEY: And from that you sort out those  
5 which seem to relate to violations of your regulations.

6 MR. SMITH: Yes. A man chops his foot with  
7 an axe. That is not a violation, but if he was electrocuted  
8 underground --

9 MR. ESTEY: If the operation was not accord-  
10 ing to the regulations you would investigate it?

11 MR. SMITH: Yes.

12 MR. ESTEY: And that investigation would  
13 be carried out by one of your 23 engineers that you have  
14 scattered throughout the province?

15 MR. SMITH: Yes.

16 MR. ESTEY: Seven of them, you said, were  
17 electrical engineers or mechanical engineers and the rest  
18 are professional engineers?

19 MR. SMITH: They are mining engineers.

20 MR. ESTEY: Your investigation leads you  
21 down to inquire into the accident, I take it, whether or  
22 not it is an infraction of your regulations, and I take it  
23 your Department decides whether there is prosecution or  
24 some other enforcement step taken.

25 MR. SMITH: That is right.

26 MR. ESTEY: I take it that is the purpose  
27 of your liaison with the Compensation Board?

28 MR. SMITH: Yes. We administer the Mining  
29 Act with regard to the operation of the mines.

30 MR. ESTEY: And another example would be -





1 and I want to know if this is, in fact, happening - if you  
2 found in these reports which flow regularly from the Board  
3 to you, a relationship between some claims being made and  
4 some new procedure, you would perhaps examine the regula-  
5 tions to see if they cover that new operation?

6 MR. SMITH: This Act is written every five  
7 years to maintain it, to keep it up with industry. This  
8 was in 1962. This is going to be longer. This will be -  
9 we will have in legislation next year, not this year.

10 The Mining Act says you must not put an in-  
11 ternal combustion engine underground. Now, we have a code  
12 that says if you follow this code you will get permission  
13 from the Chief Engineer to put this internal combustion  
14 engine underground. Now, the code may have some 20 odd  
15 rules in it, with regard to the amount of carbon monoxide  
16 that is given off. If they don't follow the code, then we  
17 withdraw the exemption and they must bring their diesel  
18 engine up from underground.

19 MR. ESTEY: Without getting to the legal  
20 basis for all that, that is what happens anyway.

21 MR. SMITH: Yes.

22 MR. ESTEY: And I suppose you have a code  
23 for propane appliances and other things?

24 MR. SMITH: Yes.

25 MR. ESTEY: What about first aid equipment?  
26 That is not regulated by your Department?

27 MR. SMITH: Yes, it is in the Act that the  
28 mine must be equipped in accordance with the Workmen's  
29 Compensation Board, so our engineers will check in a small  
30 mine to see that the proper supplies are in the cabinet





1 and, if a first aid attendant is necessary, to make certain  
2 that he is there.

3 THE COMMISSIONER: Mr. Estey, there was a  
4 recommendation made by either Mine-Mill or United Steel  
5 about some alterations in connection with the Board's regu-  
6 lations about safety equipment. I don't know whether you  
7 were here that day or not. Mr. Guthrie was here.

8 MR. ESTEY: First aid equipment, it is  
9 section 198 of your Act, a copy of which you have in front  
10 of you, I see.

11 THE COMMISSIONER: Is that in United Steel?

12 MR. GUTHRIE: Yes, it is at page 32 of the  
13 brief.

14 MR. ESTEY: The brief says:  
15 "Similarly Section 198 of the Mining  
16 Act provides that first aid supplies  
17 shall be maintained at every mine as  
18 'required by the regulations under  
19 The Workmen's Compensation Act'."

20 Then the brief went on:

21 "There is, however, no special pro-  
22 vision in the regulations for first  
23 aid requirements for miners, as there  
24 is in Section 19 of the regulations  
25 for bush workers ..."

26 That is the two regulations of the Workmen's  
27 Compensation Board.

28 MR. SMITH: Yes.

29 MR. ESTEY: I think it is (b) and (c):

30 "...despite the need for special







1 first aid equipment in the case of  
2 mining accidents."

3 Then their brief says:

4 "It is therefore recommended that  
5 the provisions of Section 198 of  
6 The Mining Act be transferred to  
7 The Workmen's Compensation Act and  
8 that provision be made in the regu-  
9 lations for the same first aid  
10 requirements as are contained in  
11 Section 19 of the regulations for  
12 employers of bush workers with the  
13 following additions:"

14 - and I will read those -

15 "f) a metal mesh basket and one  
16 hemp rope and one marlin rope;  
17 g) a low-built white truck on  
18 rails which can be pushed to  
19 the shaft for the transportation  
20 of injured workers."

21 Now, in the Act itself, in the regulations  
22 themselves, the two regulations are found in number 19 for  
23 the employers of bush workers, and 15 covers general em-  
24 ployers but no requirement as pointed out by the Steel  
25 Workers, there is no requirement specifically directed to  
26 the miners for the special first aid equipment as for the  
27 bush workers. Have you any comments why that would be so  
28 or whether it is necessary to extend 19 to cover mines in  
29 addition to bush workers?

30 MR. SMITH: 19 - you see, The Mining Act





1 says:

2 "There shall be provided and main-  
3 tained in every mine for the treat-  
4 ment of any person injured, such  
5 first aid supplies as are required  
6 by the regulations under The Workmen's  
7 Compensation Act."

8 That, then, points us back to number 19.

9 MR. ESTEY: The suggestion was made that  
10 regulation 19 should be expanded to relate to mining com-  
11 panies as well as bush workers; and then there is a  
12 reference to a metal mesh basket and white truck on rails  
13 for the transportation of injured workers.

14 MR. SMITH: The metal mesh stretcher is  
15 referred to in the Act. It says:

16 "At every mine there shall be maintained  
17 a sufficient number of properly-constructed  
18 stretchers ... "

19 - and this is a wire mesh stretcher. It is the only one  
20 that is permitted in the mining industry.

21 MR. ESTEY: They also want a hemp rope and  
22 a marlin rope, that somewhere in the Mining Act they have  
23 those two pieces of equipment.

24 MR. SMITH: That equipment is available at  
25 any mining operation because they are using them as safety  
26 ropes.

27 MR. ESTEY: The second suggestion is a  
28 low-built white truck on rails. I suppose the white is  
29 because you can see it, it stands out, and low-built so  
30 that it can go on rails.







1 MR. SMITH: We have timber trucks that have  
2 to go to every level.

3 MR. ESTEY: In any event, your answer is  
4 that the equivalent equipment in both cases is available?

5 MR. SMITH: Yes, that is right.

6 MR. ESTEY: And the effect of the two regu-  
7 lations under The Workmen's Compensation Act is to require  
8 adequate mine first aid equipment.

9 MR. SMITH: That is right.

10 MR. ESTEY: On the same general subject, we  
11 have the Ontario Federation of Labour proposing that if you  
12 have the W.C.B. regulations, if you turn to number 21, they  
13 recommend a new 21 be added, so that would just push the  
14 other 21 on. The new 21 - and I will paraphrase this  
15 because it is quite lengthy - would require the employer  
16 to provide, whether underground or on the surface, a first  
17 aid box, first aid manual, instruments, drugs, 12 adhesive  
18 dressings, adhesive tape, bandages, surgical pads, a metal  
19 mesh basket and one hemp rope and one marlin rope, a low  
20 right truck on rails. Someone is pushing the rope and  
21 truck business and your comments are the same here. What  
22 about this business of the special first aid facilities  
23 for above and below ground mining operations?

24 MR. SMITH: This material, this first aid  
25 equipment may or may not be underground. Some mines may  
26 want a person to the surface where he is in clean surround-  
27 ings, with qualified first aid men or doctors, in the  
28 larger operations, rather than have some self-medication  
29 in some corner of the mine where he opens a bandage and  
30 puts on some iodine and goes back to work. There are two





1 schools of thought on this, but I can assure you that first  
2 aid equipment is available at our mines, at every mine in  
3 Ontario. We watch this very carefully, together with this  
4 basket stretcher, because it is the only way you can move  
5 a man with injured legs, maybe hauling him up to the top;  
6 he is tied in snug and tight.

7 MR. ESTEY: Mr. Smith, may we get your  
8 remarks in a summary way by asking whether or not regula-  
9 tions prescribes an adequate type of first aid equipment?

10 MR. SMITH: There are a good many mines  
11 that go well beyond that. This is for up to 200 or more,  
12 and some of our first aid rooms are equipped many, many  
13 times in excess of that, and in insolated mines particularly.

14 MR. ESTEY: One other topic which has come  
15 up before on the question of working under pressure. I  
16 take it from looking at your statute that you have pro-  
17 visions for those cases where people in mines are required  
18 to work under pressure. I suppose it might be a salt mine  
19 or some mine where there is access through clay or some-  
20 thing. What do you do?

21 MR. SMITH: To my knowledge, there has only  
22 been one job that necessitated caisson work and that was  
23 on the collaring of a shaft, and this was some years ago.  
24 I imagine they called in the experts from the Department  
25 of Labour to advise on it.

26 MR. ESTEY: Suffice it to say that you  
27 don't have a problem there.

28 MR. SMITH: That is right.

29 MR. ESTEY: I just have one last idea to  
30 explore with you, Mr. Smith. On this question of safety,





1 accident prevention, safety association work, I am not  
2 going to embarrass you by asking for an opinion whether it  
3 should be moved from one point to another, whether it  
4 should be paid by the state or employers, but the sugges-  
5 tion is made, and quite emphatically made, that safety  
6 education and the advancement of the cause of safety would  
7 not be helped, but rather hindered, if you coupled that  
8 with the enforcement of safety regulations. You have been  
9 around mines almost through the mill for some time. Have  
10 you any opinion whether that is a valid concept or not?

11 MR. SMITH: I would say it is extremely  
12 valid. I have had occasion to be underground when some of  
13 these training sessions are being conducted and I have been  
14 amazed at the detail that goes into the instruction on the  
15 safe working of this particular item, work around the con-  
16 veyor belt or many of these different items. These fellows  
17 who are giving the training are specialists in the field  
18 and I think that the way it is operating, well enough  
19 should be left alone. That is my personal opinion.

20 MR. ESTEY: Then when some new type of  
21 equipment is introduced into a mine, presuming it has C.S.A.  
22 approval and all the other preliminary matters are approved  
23 by the appropriate agencies, I take it that unless there is  
24 a regulation covering that kind of activity, the employer  
25 is free to put the new equipment into play and you pick  
26 up its presence from your regular inspections of the mine?

27 MR. SMITH: This is correct. There are  
28 exceptions to it but they must follow the requirements of  
29 the Mining Act. Electrically, you say that it is C.S.A.  
30 approved. If they bring in an electric pump and they







1 install it on timber, the Mining Act says you can't install  
2 it on timber, you must install it on concrete because you  
3 may create a fire hazard. So the operator will take a  
4 look at the book with this new equipment that he is instal-  
5 ling or our district engineers are a short phone call away  
6 and "Come on over, let us chat over this piece of equip-  
7 ment that we are going to install". We are very available  
8 to the mining industry.

9 MR. ESTEY: On the other hand, you would  
10 pick up the new drill, or whatever it was, by your regular  
11 inspections?

12 MR. SMITH: That is correct.

13 MR. ESTEY: After you see the thing in  
14 operation, do you have any regular forum in which you meet  
15 with the safety association about the question of should  
16 there be regulations to cover this?

17 MR. SMITH: No, a new piece of equipment  
18 that has not been used before, we meet as a group once a  
19 year in May and all the engineers, district engineers,  
20 congregate in Toronto. We have three days together dis-  
21 cussing new equipment, new ideas, new methods. Then, for  
22 the next three days we attend the meetings, all the meet-  
23 ings of the Mines and Accident Prevention Association. We  
24 listen to their talks as guests of their Association.

25 MR. ESTEY: This occurs annually?

26 MR. SMITH: This occurs annually. So we  
27 try to keep up with what is going in. I am well informed,  
28 as Chief Engineer, what is going on throughout the province  
29 due to these meetings. Here is where we discuss, argue,  
30 "Do you think we should put something in on this?", "What





1 is the benefit to be gained?". We thrash this out at our  
2 meetings annually and then it is the accumulation of this  
3 material over a five year period which leads to our re-  
4 writing the Mining Act, together with some suggestions from  
5 other sources.

6 MR. ESTEY: Have you ever had occasion to  
7 forbid the use of a machine in a mine because it was too  
8 heavy to move around?

9 MR. SMITH: Not to my knowledge.

10 MR. ESTEY: Thank you very much, Mr. Smith.

11 THE COMMISSIONER: Thank you, Mr. Smith.

12 MR. ESTEY: Mr. Commissioner, we have one  
13 or two minutes before adjournment and I wondered if the  
14 other safety or accident prevention associations who have  
15 not been heard from and whom I understand are represented  
16 here, might wish to make their presence known and make any  
17 submissions they might wish.

18 We have heard from the Forest Products and  
19 the Ontario Pulp and Paper. I take it that either the  
20 Edgar Bergen or the McCarthy has spoken for the mining  
21 industry, and then we have the Industrial Accident Preven-  
22 tion Association which covers about 25 classes under the  
23 Workmen's Compensation schedules. I wonder if that Assoc-  
24 iation is represented here today.

25 Do you have anything you wish to say?

26 MR. ANDERSON: Mr. Commissioner, we were  
27 invited to make a submission and it was the decision of  
28 our Board of Directors that there was no matter on which  
29 they cared to make representation at the present time but  
30 they would be glad to answer any questions if you care to





1 ask them.

2 THE COMMISSIONER: Well, you have been  
3 sitting here and heard the tenor of the examinations this  
4 morning and the testimony this morning and I am sure, if  
5 you are not in agreement with what appears to be the general  
6 consensus of those who are acting on the accident preven-  
7 tion associations, that you would have something to say  
8 about them. So I assume you are more or less in accord  
9 with what has been stated by these gentlemen?

10 MR. ANDERSON: Yes, Mr. Commissioner, I  
11 would have to say on the basis of my own experience that  
12 we have the finest system of accident prevention that there  
13 is and that it should be allowed to continue and develop  
14 as it has been doing.

15 THE COMMISSIONER: Thank you.

16 MR. ESTEY: Could we have your name please?

17 MR. ANDERSON: R.J.B. Anderson, General  
18 Manager.

19 MR. ESTEY: Then, Transportation Associa-  
20 tion of Ontario.

21 MR. DOODY: Doody, D-o-o-d-y is the name.  
22 I heartily concur with Mr. Anderson. I have listened with  
23 considerable interest to the submissions made and the  
24 questions asked and I would heartily agree that you can't  
25 legislate safety, particularly in the education field. It  
26 is a matter of education. We work closely in various  
27 aspects with the Department of Labour, Department of Trans-  
28 port, under the Canada Shipping Act. We are a little out-  
29 side of some of the fields that are represented here but  
30 I do feel that progress is being made and statistics will







1 bear that out and programming is acceptable and I think  
2 things are moving forward better than ever before.

3 Our relationship with the Compensation Board  
4 is one of mutual understanding and we are profiting from  
5 the present way in which they are constituted and I don't  
6 feel that there is anything to be gained by a change at  
7 this present time.

8 Thank you, Mr. Commissioner.

9 MR. ESTEY: Thank you very much. There are  
10 two more, Mr. Commissioner, The Electrical Utilities Safety  
11 Association for Ontario and The Construction Safety Assoc-  
12 iation of Ontario. They represent  $1\frac{1}{2}$  classes.

13 Those are all the safety associations, sir,  
14 and the next one is going to be rather lengthy and I see  
15 it is now 1:00 o'clock. Perhaps we might postpone that.

16 THE COMMISSIONER: We will adjourn until  
17 2:00 o'clock.

18 --- At 1:00 p.m., the Hearing adjourned  
19 until 2:00 p.m.

20

21 MR. ESTEY: We will now have the Labourers'  
22 International Union of North America.

23 MR. KOSKIE: Mr. Commissioner, we intend  
24 to deal this afternoon with that portion of the brief  
25 which has been submitted on behalf of the Labourers' Inter-  
26 national Union of North America, Local 183, in connection  
27 with accident prevention, and dealing particularly with  
28 enforcement procedures, employers incentive plans, pub-  
29 licity and application of Section 86, sub-section 6A of  
30 the Workmen's Compensation Act, and safety associations.





1 We may not necessarily be dealing with them in the order  
2 in which they are set forth in the list, and I hope that  
3 that will be satisfactory. Unfortunately, these things  
4 will refer to each other throughout the brief. We tried  
5 to organize it but we can't make it exactly as you have on  
6 your list. But there is order to it.

7               Perhaps I should introduce the gentlemen  
8 who are with me here today, to assist me in the presenta-  
9 tion of this brief. Seated to my left is Mr. Fred Ward.  
10 Mr. Ward is employed as a safety and training supervisor  
11 for a company which is engaged in the manufacturing and  
12 erection of plate steel. I would prefer not to mention  
13 the name of this company, at the request of Mr. Ward,  
14 although I should say that this company is a world-wide  
15 known company and Mr. Ward has been associated with the  
16 company since May of 1966. Prior to his employment with  
17 this particular company, Mr. Ward was employed as a safety  
18 inspector for the Township of Scarborough under the pro-  
19 visions of the Construction Safety Act, and he held this  
20 position for approximately one year. Before his employ-  
21 ment with the Township of Scarborough, Mr. Ward was an  
22 assistant safety director at the McNamara Construction  
23 Company and was employed in that capacity for a period of  
24 two years and before this particular time, Mr. Ward was a  
25 coordinator of field services for the Construction Safety  
26 Association. Mr. Ward began his occupation in accident  
27 prevention with this particular association and began  
28 working in the field and he was working on the job projects  
29 themselves which required him to have various discussions  
30 with management in connection with accident prevention and





1 he was generally engaged in the promotion of accident  
2 prevention measures.

3 As you can see, Mr. Commissioner, Mr. Ward  
4 has had some experience in this field and I will be asking  
5 him, from time to time, to comment upon various aspects  
6 of the brief which we are submitting today. Unfortunately,  
7 Mr. Ward must leave for Chicago later in the afternoon and  
8 I will try to get all our presentation over by 4:30 but I  
9 will try and work in Mr. Ward before anyone else.

10 Seated behind me, I think you know Mr.  
11 Commission, Mr. Gerald Gallagher of the Labourer's Union,  
12 Secretary-Treasurer and Business Manager. And seated to  
13 his right and my right is Mr. Norman Pike, the Safety  
14 Inspector of the Labourers' Union and to his right is Mr.  
15 Michael Lynch, also with the Labourers' Union and to my  
16 immediate right is Mr. Ronald Atkey of my office, and he  
17 will assist as well.

18 THE COMMISSIONER: You are well supported.

19 MR. KOSKIE: Yes, sir.

20 If I may, sir, refer now to the brief which  
21 we have submitted, firstly I would like to deal at page  
22 21 of the brief under the general heading of Safety and  
23 Accident Prevention. We deal, firstly with Centralization  
24 of Safety Inspection and Regulations. If I may read:

25 It has been our experience that there are  
26 a number of enforcement agencies often working at cross  
27 purposes in the safety inspection field. For example,  
28 the Workmen's Compensation Board engages inspectors to  
29 check first aid facilities and equipment, while the Safety  
30 Inspection Branch of the Department of Labour sends out







1 inspectors to ensure compliance with the Construction  
2 Safety Act and other statutory regulations. For example,  
3 the Department of Labour regulations dealing with persons  
4 working in compressed air. Municipalities sometimes employ  
5 inspectors for purposes of checking safety on construction  
6 sites within its jurisdiction, and employers themselves  
7 often have inspectors for various purposes. Interwoven  
8 with the activities of all these agencies are the various  
9 Accident Prevention Associations that are financed to a  
10 large extent by the Workmen's Compensation Board.

11           The total effort of all these agencies has  
12 not always been the most efficient and economical in terms  
13 of effective accident prevention in Ontario. In some  
14 areas there has been a wasteful duplication of inspection  
15 while in others, there has been a shocking absence of  
16 inspection or regulation of any sort. When I refer to  
17 regulation on the job, I am referring to the actual enforce-  
18 ment of any regulation in existence under either the  
19 Construction Safety Act or the Department of Labour regu-  
20 lations. Particularly with the municipal system of inspec-  
21 tion, the present procedure of discovering and reviewing  
22 infractions, issuing and enforcing orders, and prosecuting  
23 or enjoining violations is entirely too cumbersome and  
24 slow to ensure reasonable protection for all those active-  
25 ly engaged on the construction site. For example, the  
26 Township of Scarborough in November of 1965, outlined  
27 various procedures to be followed regarding construction  
28 safety inspection, which are illustrative of these dif-  
29 ficulties. There, the safety inspector may stop the work  
30 unless the infraction is of a minor nature. The infrac-





1 tions observed are recorded and a detailed order is issued  
2 to comply with provisions of the Construction Safety Act.  
3 Then the inspector is to discuss the order with the person  
4 receiving it, and is to allow "alternative procedures" if  
5 the Act is still complied with; otherwise the order is to  
6 be issued stopping the work in the unsafe portions of the  
7 project. Non-compliance with the order results in the  
8 issuing of a new order, and the matter being brought to the  
9 attention of the Supervisor of Building Inspection, who  
10 reviews the problem and attempts to contact the job super-  
11 intendent to determine the reason for non-compliance. If  
12 the job superintendent agrees to cooperate, the summons is  
13 withheld for a stated time.

14 THE COMMISSIONER: Why do they require a  
15 new order?

16 MR. KOSKIE: We don't know why, Mr. Com-  
17 missioner, but they do require it. I am going to file  
18 with you shortly, as soon as I finish reading the para-  
19 graph, the outline I refer to. We are not sure why some  
20 of these procedures are necessary, but what we are trying  
21 to point out is the difficulty and the cumbersome nature  
22 of these provisions.

23 If the job superintendent has objections,  
24 a further investigation takes place and if the objections  
25 are valid, the Supervisor is to discuss the matter with the  
26 Director of Buildings Regulations before determining further  
27 action. If the objections are groundless, or if there is  
28 no cooperation, a summons is recommended, and the matter  
29 drawn to the attention of the Director of Buildings Regula-  
30 tions for further action. If there is still no cooperation,





1 a representative of the Director goes to the Legal Depart-  
2 ment of the municipality to recommend issuance of the summons.

3 THE COMMISSIONER: This is the Township of  
4 Scarborough. That procedure could hardly be the case in  
5 other municipalities, could it?

6 MR. KOSKIE: Mr. Commissioner, we have cited  
7 the Township of Scarborough here, not intending necessarily  
8 to single out the Township. The Labourers' Union, in its  
9 contact with other Townships has, to my understanding,  
10 found similar difficulties. Perhaps not the identical pro-  
11 cedure but basically the procedures they have appear to be  
12 equally as cumbersome, the result being that very few, if  
13 any, of these infractions are taken to Magistrate's Court  
14 for the proper prosecution thereof.

15 MR. GALLAGHER: I may say, as a matter of  
16 fact, the Township of Scarborough have been far more co-  
17 operative, Mr. Commissioner, than many other Townships that  
18 we have been meeting with. They have a procedure, at least.  
19 Some of the Townships have no procedure at all.

20 MR. KOSKIE: I should point out, Mr. Com-  
21 missioner, again - and I wish to stress this - that we are  
22 not attempting to overly criticize the Township of Scar-  
23 borough, as Mr. Gallagher has pointed out, but this was the  
24 only Township that we could really get this detailed infor-  
25 mation about. As Mr. Gallagher has pointed out, they are  
26 perhaps less guilty of delays than some of the others but,  
27 nonetheless, this still points up the delays that we are  
28 confronted with. If I may continue:

29 If the Legal Department decides to issue  
30 same, the offender then is required to appear in Magistrates'







1 Court for disposal of the charge. Throughout this prolonged  
2 process, unsafe working conditions often can go unrectified  
3 and the men's lives and health thus continually endangered.

4 THE COMMISSIONER: Just four years ago when  
5 Judge McAndrew conducted his Inquiry into safety measures  
6 in the province, were these considerations brought to his  
7 attention, do you know, at that time?

8 MR. KOSKIE: The Construction Safety Act,  
9 Mr. Commissioner, only commenced in 1961, I believe, 1961  
10 or 1962. I don't believe, therefore, at the time this  
11 particular Inquiry was in existence that these particular  
12 procedures were being discussed then.

13 THE COMMISSIONER: There must have been  
14 some municipal jurisdiction, though, prior to that time  
15 regarding construction safety.

16 MR. WARD: Mr. Commissioner, at that time,  
17 before that time, I was employed by the Construction Safety  
18 Association as a field counsellor and also in the office.  
19 I believe there was the old Building Trades Protection Act  
20 but it was not specific in its directives as far as safety  
21 was concerned and had broad, general statements. I think  
22 the Townships were obliged, at that time, to appoint in-  
23 spectors to enforce it but to my knowledge, there was never  
24 one appointed anywhere in Ontario. This is to my personal  
25 knowledge.

26 THE COMMISSIONER: Is there any reference  
27 by the Commissioner on his report on industrial safety  
28 about this municipal situation?

29 MR. KOSKIE: I certainly have no knowledge  
30 of it, sir.





1 I should point out too, that once these  
2 offences are taken into Magistrates' Court for prosecution  
3 - and this, of course, would perhaps be anywhere from a  
4 month to two months after the offence took place - there  
5 is always the problem of further adjournments in Magis-  
6 trates' Court which, of course, do not in any way assist  
7 the prosecution of these offences and are not designed to  
8 achieve the purpose of the prosecution which was intended.

9 Before proceeding further, Mr. Commissioner,  
10 I wish to file with you the procedure I referred to from  
11 the Township of Scarborough.

12 THE COMMISSIONER: Exhibit 32.

13 EXHIBIT NO. 32: Copy of Procedure followed by  
14 Township of Scarborough, regarding  
15 Safety Measures.  
16

17 MR. KOSKIE: This is a document prepared  
18 by the Township of Scarborough, Commissioner of Buildings,  
19 dated November the 5th, 1965, headed, Procedure to be  
20 Followed Regarding Construction Safety Inspections. This  
21 is a two-paged document and, virtually what I have said  
22 has been sort of a paraphrasing of what has been contained  
23 in this document and I do not think I will bore you to  
24 read this in detail, unless you so choose, but I believe  
25 I have fairly paraphrased these procedures. I do have a  
26 copy of this for counsel, as well.

27 Suffice to say, Mr. Commissioner, that this  
28 procedure is, as you appear to have noted, somewhat cum-  
29 bersome and involves many, many delays before the prosecu-  
30 tion, if any, is launched in Magistrates' Court. Perhaps





1 if this is proper with the Commission, I would like to call  
2 Mr. Ward to comment in connection with his experience  
3 dealing with the enforcement procedures in the various  
4 Townships before I go on to the next phase. Mr. Ward,  
5 would you please do that? Mr. Ward, I understand you were  
6 employed by the Township of Scarborough for a period of  
7 approximately one year and you dealt mainly with the  
8 enforcement procedures under the Construction Safety Act.  
9 I would like you to advise us what your experience has  
10 been in connection with the enforcement of these procedures  
11 regarding the Township.

12 MR. WARD: Mr. Commissioner, first of all,  
13 before I make any statements in regard to discussions that  
14 I may from time to time be called upon to discuss, I would  
15 like to state the prime reason for my being here. That is  
16 that I feel the field of accident prevention is one of the  
17 most important fields of occupation that any human being  
18 can be involved in. When we take a look at some of these  
19 figures, for instance the cost alone, from that aspect you  
20 have got somewhere around the cost of some \$4 billion a  
21 year to the economy. I think this is a phenomenal, stag-  
22 gering national loss that we are suffering. The other  
23 one is one from a humane point of view that no one wants  
24 to see anyone get hurt. But to me it is a very tragic  
25 situation when we have to go and tell a wife that her  
26 husband is never going to come home again because of  
27 various reasons.

28 There is another aspect, as I see it from  
29 my own experience, and that is that the various companies  
30 I have been associated with through a lack of personnel







1 to execute their work, have to go overseas to import skilled  
2 tradesmen and yet we feel that through a lack of probably  
3 some measures in accident prevention, many of these people  
4 could be made available for our industrial concerns. These  
5 are just a few of the points that I feel personally I am  
6 obliged to come and speak before the Commission about.  
7 Whatever I say in regard to certain matters, is not to  
8 affront any individual person or persons involved; it is  
9 just the factors as I see them myself, from my personal  
10 experience.

11                   Regarding matters in Scarborough, where I  
12 was employed as a safety inspector for approximately a  
13 year, it was my practice, or my instruction, according to  
14 the Act, to go out onto the various construction sites and  
15 ascertain whether or not the contractors were working ac-  
16 cording to the provisions of the Construction Safety Act.  
17 Unfortunately, in far, far too many instances, there were  
18 a number of disabling conditions evidenced, which in my  
19 opinion required immediate action to correct so that  
20 someone would not become hurt or killed or seriously in-  
21 jured. To make my analysis of my tours around the jobs  
22 and from what I saw, according to the provisions of the  
23 Act, I would issue an order. In many instances I have  
24 issued orders -

25                   MR. KOSKIE:   What type of order would this  
26 be, Mr. Ward?

27                   MR. WARD:   This would be, initially, an  
28 order to comply. This would be an instruction to the  
29 contractor to comply with the provisions of the Act and,  
30 in some cases there would be a stop-work order because the





1 nature of the exposure was such that it might kill someone  
2 or seriously hurt them.

3                   Unfortunately, I had one contractor tell me  
4 that he did not think that he would pay too much attention  
5 to the order which I had issued. This sort of thing, I  
6 felt, as a government officer, seemed a terrible apathy  
7 that was taking place. When I proceeded to take some action,  
8 then through the courts, I found there were many avenues  
9 and channels which I had to sort of progress through, more  
10 or less, I might say, in my opinion anyway, like an obstacle  
11 course. This saddened me anyway, because I felt that these  
12 conditions, if left unattended, would sooner or later kill  
13 somebody. This was one of the prime difficulties which I  
14 found in the Township. I have to be very clear in stating  
15 this fact, that the Township of Scarborough - I am talking  
16 about a Department on this particular occasion - in the  
17 Trench Department, for instance, they did 110 miles of  
18 trenching without a serious injury, which, to me, is a  
19 great record. So when we say the Township of Scarborough,  
20 we are not saying that the administrative officials of the  
21 Township of Scarborough have not good intentions.

22                   However, the difficulties which I personally  
23 encountered, were, to me, staggering to get rid of these  
24 occurrences. I believe the Department of Labour used their  
25 good offices to try and overcome this problem and still  
26 there were many difficulties that came along. The sad part  
27 about the situation, as I see it, was that, although I had  
28 orders and issued these orders to various contractors to  
29 comply, the obstacles that were presented took so long  
30 that sometimes a job would be finished before any action





1 could be taken and I feel that this is defeating the pur-  
2 pose of the legislators when they introduce legislation  
3 which is in being.

4 MR. KOSKIE: I was wondering, Mr. Ward, if  
5 you could assist the Commissioner with respect to the per-  
6 centage of instances where you have issued stop-work orders  
7 and recommended prosecution? What percentage of these were  
8 in fact, taken to Magistrates' Court for prosecution pur-  
9 poses? Would you comment generally on that aspect of it?

10 MR. WARD: This would be hard to say. I  
11 don't have a complete record of such a situation but I  
12 think we had about five prosecutions or perhaps six, maybe  
13 seven, I don't recall exactly, but it was my opinion -

14 MR. KOSKIE: Over what period of time?

15 MR. WARD: This was in the period of a  
16 year that I was employed with the Township. But I feel  
17 that there should have been court cases according to the  
18 number of exposures of human beings to death-dealing con-  
19 ditions and serious-injury-dealing conditions. I don't  
20 know if there would be enough courts in Scarborough to hold  
21 them for about a week or so. This may sound sort of a wild  
22 statement but it was a fact when I first went to the Town-  
23 ship, that a number of conditions which contributed to  
24 these accidents were excessive. I felt it was a sad situ-  
25 ation that we couldn't get some more action taken.

26 I think, actually this is prevalent, not  
27 only in the Township of Scarborough, but this is prevalent,  
28 I think, throughout the Province of Ontario and, I think,  
29 other parts of Canada. So I think, actually, to single  
30 out a Township would not be fair. I think, according to







1 what is currently being done in the field of accident pre-  
2 vention, I think this is a general statement which would  
3 apply to municipal inspection as a whole.

4 MR. KOSKIE: Mr. Ward, you have been kind  
5 enough to provide us with certain stop-work orders, com-  
6 pliance orders which were issued by you under the provisions  
7 of the Construction Safety Act, 1961 - 62. Perhaps you  
8 might offer a word of explanation to the Commissioner on  
9 these particular orders.

10 MR. WARD: As an example, to back up what  
11 I have just said, on January the 11th, accompanied by the  
12 Department of Labour inspector, I visited a job where a  
13 man was working on a swing stage and they were not being  
14 tied off, as was called for by the Act. I issued an order  
15 that these fellows shall wear these devices on January the  
16 11th. On January the 12th, I returned to the site and the  
17 same thing was in evidence on January the 12th. And the  
18 same thing was in evidence on January the 13th when I came  
19 back. On each occasion, stop-work orders were issued.

20 MR. KOSKIE: How many stop-work orders  
21 were issued, Mr. Ward?

22 MR. WARD: That would be three.

23 MR. KOSKIE: And what was the particular  
24 offence? Perhaps you could describe that in a little more  
25 detail so we could understand that.

26 MR. WARD: It is working off a suspended  
27 stage. Actually, these suspended stages are of a danger-  
28 ous nature. It is similar to a car where you have two  
29 means of support and the idea is that you have got the  
30 suspended stage itself which / supports suspended from a





1 needle beam on the roof and then you have another line  
2 that comes down from an independent part of the structure  
3 with a belt around the person's waist with a line tied off  
4 to it.

5 MR. KOSKIE: And these persons were not  
6 wearing the belt, is that it?

7 MR. WARD: Correct.

8 MR. KOSKIE: Was this particular matter  
9 the subject matter of a prosecution in Magistrates' Court?

10 MR. WARD: No, it was not.

11 MR. KOSKIE: Did you recommend prosecution  
12 in that case?

13 THE COMMISSIONER: Was it the man's fault  
14 or the employer's fault that the belt was not being worn?

15 MR. WARD: Well, I phoned the employer and  
16 I advised him, I believe on the 12th - I don't recall the  
17 time exactly - but I did contact the employer and advised  
18 him that this should be done, and I went back on the 13th  
19 and it still was not done.

20 THE COMMISSIONER: What could the employer  
21 do if a man would not do it? The man might find that rope  
22 was interfering with his work or he thinks it might.

23 MR. WARD: This is true and this is one  
24 of the difficulties in accident prevention that sometimes  
25 the person himself feels that it would be of a sissy nature  
26 or something like that and they won't take some incentive  
27 to protect their own lives. It is very true that a lot  
28 of men are, more or less, instruments of their own death  
29 and serious injury. I think this should be elaborated  
30 upon, to say that quite often employers do not take the





1 initiative to try and create safety awareness amongst the  
2 operating crew.

3 MR. KOSKIE: Were the belts available to  
4 supply these men?

5 MR. WARD: I didn't see them around.

6 MR. KOSKIE: Whose duty was it to supply  
7 them?

8 MR. WARD: This is up to the employer. I  
9 think, if an employer is obliged to have a man working in  
10 a certain place, he is supposed to provide the means for  
11 him to be there. He can't expect a man to go out and buy  
12 a safety device -

13 THE COMMISSIONER: I think that goes with-  
14 out saying. These things should be provided by the em-  
15 ployer. Whether it is used or not is another thing.  
16 Employers provide the safety hats, don't they, and boots?

17 MR. WARD: Yes.

18 MR. KOSKIE: Mr. Ward, could you make any  
19 recommendations to the Commission with respect to the  
20 enforcement procedure as you would like to see it?

21 MR. WARD: I have read certain excerpts of  
22 the briefs and I feel, as I see it, that in the first place  
23 a person appointed to be an inspector should be a person  
24 well trained in accident prevention. When I say "well  
25 trained" I think it comes up later in the discussion as  
26 to what we recommend as minimum requirements for such a  
27 person.

28 MR. KOSKIE: What about the procedure to  
29 follow, actually.

30 MR. WARD: I think, actually then, the







1 procedure comes about --

2 THE COMMISSIONER: One of the briefs we  
3 heard this morning, they said that all of their field  
4 workers and training officers had to have at least five  
5 years experience on the job and have had some supervisory  
6 work before they would take them on. Would that be satis-  
7 factory?

8 MR. WARD: I think it goes a little farther  
9 than that, Mr. Commissioner. Actually, you mentioned  
10 yourself --

11 THE COMMISSIONER: They also have training  
12 courses by some people, some man who comes from Vancouver  
13 and these people, apparently, are experts. They are in  
14 their training staff.

15 MR. WARD: Actually, the problem is, you  
16 said yourself there, that sometimes an employer will pro-  
17 vide a man with safety garments, safety gear, safety equip-  
18 ment and one thing and another and why doesn't the man  
19 himself take the initiative and use this stuff when it is  
20 provided. I think, actually, this is where a qualified  
21 safety man comes into the picture, where he is trying to  
22 appeal to good reason and stimulate safety awareness amongst  
23 operating crews. I think this is where the difficulty  
24 comes in with the present system, one of the difficulties.  
25 I think think this is over and above what you have already  
26 mentioned.

27 MR. KOSKIE: Perhaps we could deal with  
28 the qualifications later on, Mr. Commissioner.

29 Anything further you would like to say in  
30 connection with the enforcement procedures, Mr. Ward?





1 MR. WARD: No, I think, actually, it is  
2 covered on a further point here. I think, actually, the  
3 qualifications of an inspector should be set fairly high  
4 and I think he should be given certain responsibilities  
5 that he takes immediate action. Some of them may be hurt  
6 or killed -

7 THE COMMISSIONER: You are talking now  
8 about the Construction Safety Association?

9 MR. WARD: No, I am not, Mr. Commissioner.  
10 I am saying here, as we have read through this part of the  
11 brief, these various delays come in like an obstacle course  
12 and I feel that the inspector, if the Township, for instance,  
13 delegates in him the responsibility to issue a stop-work  
14 order -

15 THE COMMISSIONER: You are referring now  
16 to these jobs that come under the supervision of a municipi-  
17 pality.

18 MR. WARD: That is right.

19 THE COMMISSIONER: Any municipality.

20 MR. WARD: Right, to enforce the Act. If  
21 they have given a man this liberty to issue a stop-work  
22 order, then I think they should also give him the liberty  
23 to go ahead and lay the charges against the company for  
24 non-compliance with his order.

25 MR. KOSKIE: We attempt to deal with that  
26 a little later on in the brief, Mr. Commissioner.

27 THE COMMISSIONER: We don't want to deal  
28 with it twice.

29 MR. KOSKIE: We intend to elaborate on it.  
30 We have some further points to make on that question.





1 Mr. Commissioner, as further evidence of  
2 the inability and failure of the various Township author-  
3 ities, other than Scarborough, to enforce the relevant  
4 safety and accident prevention procedures under the Acts,  
5 Mr. Norman Pike can assist us in this regard. We have  
6 various photographs which we would like to file with the  
7 Commission which are illustrative of our submission.

8 THE COMMISSIONER: What is the submission?

9 MR. KOSKIE: The submission, we just want  
10 to support the submission with respect to the enforcement  
11 procedures as applied by the various municipalities and  
12 townships and their failure to strictly enforce the various  
13 sections under the Construction Safety Act and regulations  
14 thereto.

15 THE COMMISSIONER: Well, what can you add  
16 to what has been said by Mr. Ward. He worked for a muni-  
17 cipality for a year and this was his experience. He has  
18 filed what shows to be a very cumbersome proceeding and  
19 it is obvious that other municipalities work under some-  
20 what similar arrangements and I have no doubt where  
21 municipalities are concerned, that there is political  
22 pressure of one kind or another on them all the time or,  
23 if not political pressure, other pressures. In effect,  
24 anything that comes under municipal jurisdiction probably  
25 affects this.

26 MR. KOSKIE: Well, we do have with us, Mr.  
27 Commissioner - and if you don't wish us to file them, we  
28 won't, of course - photographs, for example, indicating  
29 various infractions under the Construction Safety Act and  
30 other similar Acts where the townships did not take any







1 steps to prosecute with respect to these infractions.

2 THE COMMISSIONER: Well, speaking for  
3 myself, I am prepared to accept that that situation does  
4 happen quite frequently on your say so and on what Mr.  
5 Ward says, without cluttering up the record further. I  
6 would like to hear what Mr. Estey thinks about this.

7 MR. ESTEY: I don't think they could add  
8 anything to the solution of the problems before the  
9 Commissioner. If I understand them to be supporting  
10 evidence, I don't think we require that unless you have  
11 some other grounds to put them forward.

12 MR. KOSKIE: We will deal with it later in  
13 the brief, then. As long as this fact is recognized, I  
14 won't belabour the point any further.

15 Now, if I may read further in the brief, on  
16 page 23,-

17 Another aspect of the municipal inspection  
18 system which is open to question are the qualifications  
19 demanded of safety inspectors who are being hired. For  
20 example, the Building Inspection Department of the City of  
21 Toronto has stated on occasion that the only qualification  
22 for a safety inspector in its employ is a working knowledge  
23 of the Construction Safety Act and the Trench Excavators'  
24 Protection Act. Starting salary in such a position is  
25 \$112.00 per week, and we have been led to believe that the  
26 Department has experienced considerable difficulty in  
27 finding men to fill its positions. Mr. Gallagher has some  
28 evidence of interest on that particular point, Mr. Com-  
29 missioner.

30 MR. GALLAGHER: Mr. Commissioner, I have





1 a letter which I am not going to file with you, but we can  
2 produce it, from the City of Toronto, signed by a certain  
3 Alderman, asking me why they had such great difficulty -  
4 he asked me because I was known to have been involved in  
5 safety - in finding competent inspectors. He advised me  
6 that he had advertised extensively in the newspapers to  
7 get competent men and when I investigated this matter, of  
8 course, I found out that the starting salary was \$112 a  
9 week. I said, "There is one thing for a start-off. Our  
10 lowest paid labourer gets more than that and how you can  
11 expect to get competent men under those conditions, I will  
12 never know".

13 At this moment, at least two weeks ago when  
14 I was investigating the matter, there were ten inspectors  
15 in the City of Toronto, short, ten in a small area like  
16 the City of Toronto itself, the city proper. At this  
17 moment I don't believe that these positions have been  
18 filled.

19 Two of our men applied for jobs as inspec-  
20 tors and they asked what the conditions were and what  
21 experience was required and they were told - and they can  
22 be produced - that all that was required was a working  
23 knowledge of the Trench Excavators' Act and the Construc-  
24 tion Safety Act. They said, "We would like to have them  
25 from the trades rather than from the labourers. Of course  
26 this is not going to help very much but we find, of course  
27 that we have very highly skilled people in our organization  
28 and we felt that this was a little bit discriminatory.  
29 But the fact of the matter I am trying to make is, that  
30 we feel that until the municipalities realize that it is





1 a matter of life and death, and a matter of life and death  
2 is important as we all know, that it is not very far-seeing  
3 to expect men to carry out a job with salaries of this  
4 kind and support a family. They don't want a man too  
5 young, they don't want a man too old - all these limita-  
6 tions.

7 THE COMMISSIONER: You are getting a little  
8 beyond the scope of this Inquiry as far as I am concerned,  
9 getting into the salary scale of Toronto or a municipality.  
10 Obviously, I can't do anything about that. The general  
11 tenor of your statements I am interested in, but I think  
12 we will have to leave it there because I can't do anything  
13 about that.

14 MR. GALLAGHER: I was trying to explain,  
15 Mr. Commissioner, that these are matters which are not  
16 directly relevant to the Inquiry but they are very rele-  
17 vant to the life and death of the people I represent. I  
18 think it should be brought forward if only as a matter of  
19 advice. We are building up to the fact that the whole  
20 safety inspection should be centralized.

21 THE COMMISSIONER: It shouldn't be under  
22 a municipality at all?

23 MR. GALLAGHER: That is one of the points  
24 we are trying to get at.

25 MR. KOSKIE: That is the point we are about  
26 to make in our brief. Now, on page 24 of the brief, we  
27 say as follows:

28 What is needed to remedy these various  
29 problems is a single, centralized, co-ordinating agency to  
30 marshall the concerted efforts and resources of employers,







1 workmen and government towards an all-ecompassing safety  
2 inspection and regulation program. It is our submission  
3 that the Workmen's Compensation Board, as the agency pro-  
4 viding compensation to industrial accident victims, is  
5 the most logical choice as the agency to supervise a re-  
6 vamped system of inspection and regulation in the field  
7 of industrial accident prevention. Specifically, we would  
8 recommend that a separate panel of three members be con-  
9 stituted to deal solely with all matters of accident pre-  
10 vention, including the supervision and control of the  
11 inspection system. Ideally, one member of the panel might  
12 be appointed from management, one from labour, and the  
13 third might be a neutral person well-versed in all aspects  
14 of industrial accident prevention.

15 Now, if I may stop at that point and file  
16 this document. Mr. Ward has been so kind as to suggest an  
17 alternate set-up of such a board, and he recommends an  
18 advisory board on safety may be established which would  
19 consist of two persons representing government and two  
20 from management and two from labour and a neutral chairman,  
21 and the various sub-branches and offices under that advisory  
22 board. We suggest this as an alternate. I file this with  
23 the Commission for its assistance, and I have a copy for  
24 counsel.

25 EXHIBIT NO. 33: Chart: Suggested Advisory Board  
26 on Safety.  
27

28 At the top of the chart you will notice,  
29 Advisory Board of Experienced Safteymen and underneath  
30 that there is a Safety Director, Assistant Safety Director





1 Co-ordinator and there are various sub-branches indicated  
2 there, a branch dealing with administration, a branch deal-  
3 ing with legal advice, a branch dealing with accident stat-  
4 istics, a technical branch, an education branch, an enforce-  
5 ment branch and a public relations branch.

6 THE COMMISSIONER: Mr. Koskie, what you are  
7 interested in is that some such system under a safety  
8 director be established, and I suppose it really doesn't  
9 matter to you: something would have to be done by the  
10 government in any event, either by amendment to the Work-  
11 men's Compensation Act or amendment to some other act. It  
12 doesn't matter to you whether it comes under the Workmen's  
13 Compensation Board or whether it is set up separately.

14 MR. KOSKIE: With respect, we do, Mr.  
15 Commissioner. We would prefer, as I indicated, that such  
16 a body came under the jurisdiction of the Workmen's Compen-  
17 sation Board since the Workmen's Compensation Board is  
18 really concerned with accident prevention itself, which,  
19 of course, relieves the number of accident claims.

20 THE COMMISSIONER: Of course, there have  
21 been a number of witnesses here who have said that the  
22 efforts of the accident prevention associations are better  
23 achieved if they had enforcement powers as well, that is  
24 an association with an enforcement agency, if they go out  
25 to give instruction on safety measures, that the people  
26 they deal with realize this. That is the evidence we heard  
27 this morning from a number of sources.

28 MR. KOSKIE: I appreciate that. But, not-  
29 withstanding that, we still feel that it would be more  
30 convenient to have this under the jurisdiction of the





1 Workmen's Compensation Board, even though it would require,  
2 obviously, an enlargement of the Board's present facilities.

3 MR. GALLAGHER: May I add, Mr. Commissioner,  
4 one point to that. These various associations, construc-  
5 tion safety associations, and so on, have to turn to the  
6 Compensation Board for statistics and information all the  
7 time. One of our points is that they shouldn't have to go  
8 back and forth in this way, that the Compensation Board  
9 already has a set-up on these statistical matters.

10 THE COMMISSIONER: It is furnishing them  
11 to the Department of Labour and the Department of Mines  
12 and other departments which have these duties.

13 MR. GALLAGHER: Yes. If you reverse the  
14 process, have some other agency than the Compensation  
15 Board, they would have to turn over these statistics they  
16 gathered in to get to the goal they are aiming at.

17 MR. KOSKIE: We suggest that any such board  
18 be made responsible to the Workmen's Compensation Board as  
19 opposed to responsibility to a township or municipality or  
20 some other department. The point we are making is that  
21 there should be some centralized agency in regard to acci-  
22 dent prevention. Interestingly, there is provision for  
23 this already in existence under the Alberta Compensation  
24 Act. Mr. Atkey has done research on this point and perhaps  
25 can be of assistance, and I will ask him to deal with that.

26 MR. ATKEY: Mr. Commissioner, there are  
27 provisions in the Alberta Legislation. They are somewhat  
28 similar in their first few sections to section 96 of the  
29 Ontario Workmen's Compensation Act. That section gives  
30 the Board the right to inspect the premises of employers







1 and to note whether proper precautions are taken for the  
2 prevention of accidents. It gives the Board the right;  
3 an offence is committed if the employer does not let the  
4 Board come on the premises. The Alberta Legislation starts  
5 in the same fashion and it allows the Board to allow an  
6 employer to rectify the situation and it allows for certain  
7 contingencies if an employer doesn't rectify that situa-  
8 tion.

9 THE COMMISSIONER: I suppose it is in the  
10 terms recommended by Mr. Justice Roach, is it?

11 MR. ATKEY: I am not sure of that. It is  
12 a rather detailed legislation, covering about two pages  
13 here. I will commence at sub-section 3, because the first  
14 two sub-sections are similar to the Ontario Act." It says:

15 "Where, in any employment or place  
16 of employment, safety devices are  
17 in the opinion of the Board necessary  
18 for the prevention of accidents or  
19 of disease, the Board may order the  
20 installation or adoption of such  
21 appliances or devices, (and they fix  
22 a reasonable time within which they  
23 shall be installed or adopted) and  
24 the Board shall give notice to the  
25 employer accordingly, and the  
26 employer shall post or cause to be  
27 posted, in a conspicuous place upon  
28 the place of employment, a copy of  
29 the notice which shall remain so  
30 posted until the order has been





1                   complied with and the employer so  
2                   notifies the Board and the Board  
3                   authorizes its removal."

4                   Sub-section 4 goes on to say --

5                   THE COMMISSIONER:    I have the sections  
6 before me now. Then if the employer fails to comply, the  
7 Board can have the premises inspected. This is the one  
8 you are referring to. The next one is failing to obey an  
9 order.

10                  MR. ATKEY:    "the Board may, in its  
11 discretion, order the employer forth-  
12 with to close down the whole or any  
13 part of such employment or place of  
14 employment and the industry carried  
15 on therein."

16 which is tantamount to a stop-work order.

17                  MR. ESTEY:    That is the same as Mr. Justice  
18 Roach on page 94.

19                  MR. ATKEY:    If he fails to obey under sub-  
20 section (5a), sub-sections (7) and (8) provide for in-  
21 creased contribution where unsafe situations prevail and  
22 are not corrected.

23                  THE COMMISSIONER:    It is still a slow  
24 process. It is there, isn't it?

25                  MR. ATKEY:    It is, Mr. Commissioner. We  
26 don't say that we adopt the Alberta legislation, but this  
27 is a step in the right direction. As will be seen by our  
28 further submissions presented by Mr. Koskie, this is a  
29 step in the right direction and only to be regarded as  
30 such.





1 MR. KOSKIE: If I may read further from  
2 the brief, Mr. Commissioner, at page 24.

3 In addition to the supervisory duties and  
4 powers over the inspection system, the panel might also  
5 act as a supervisory authority over the Accident Preven-  
6 tion Associations and could provide centralized research  
7 facilities in the field of accident prevention.

8 The members of our union however, are most  
9 gravely concerned about safety inspection. We firmly  
10 believe that a special panel of the Workmen's Compensation  
11 Board could provide the kind of centralized supervision  
12 necessary for an inspection program that would substanti-  
13 ally reduce industrial accidents. In this regard, we  
14 would urge that such a centralized authority adopt the  
15 following principles and guidelines:

16 (a) The supervisory authority should have  
17 a centralized administrative office from which all inspec-  
18 tors throughout the Province would be controlled, includ-  
19 ing municipal inspectors.

20 (b) The authority must have the power to  
21 determine the number of safety inspectors to be hired in  
22 each area of the Province, and to supervise their activities.

23 (c) The authority must insist upon certain  
24 minimum qualifications with regard to safety training for  
25 all inspectors. Also, the authority must set up certain  
26 rates of pay according to qualifications and responsibility,  
27 and must provide that the position of safety inspector be  
28 held only by full-time personnel. It is essential that  
29 the position of safety inspector become a recognized pro-  
30 fession with high standards and sufficient remuneration to







1 attract capable men.

2 (d) Trench, tunnel and safety inspection  
3 should be embodied in the same position, and should fall  
4 under the supervision of the centralized authority.

5 (e) The following procedure for issuing  
6 and enforcing inspectors' orders should be adopted:

7 Before I go on to that, we were dealing  
8 with the problem of qualification of safety men and whatever  
9 assistance it may be to you, sir, I wish to file with you  
10 a copy of a document here, issued by the Canadian Associa-  
11 tion of Professional Safety men, Information and Instruction  
12 for Membership Applicants. This is with respect to member-  
13 ship qualifications.

14 THE CHAIRMAN: Exhibit 34.

15 EXHIBIT NO. 34: Document headed Canadian Association  
16 of Professional Safety men. Informa-  
17 tion and Instruction for Membership  
18 Applicants.  
19

20 THE COMMISSIONER: Who is the Canadian  
21 Association of Professional Safety men? We had a brief  
22 from them which was withdrawn.

23 MR. KOSKIE: Yes. The Canadian Association  
24 of Professional Safety men was established early this year,  
25 in February, 1966, and it was organized mainly for the  
26 purpose of providing assistance to persons who are in any  
27 way concerned with accident prevention in the Province of  
28 Ontario, and these persons have already made representa-  
29 tions to the Deputy Minister, Mr. Eberlee.

30 THE COMMISSIONER: You say it was established.





1 What sort of an organization is it?

2 MR. KOSKIE: It is an independent organiza-  
3 tion. It is in no way financed or sponsored by any other  
4 body; it has no relationship to the Workmen's Compensation  
5 Board.

6 THE COMMISSIONER: It has a substantial  
7 membership?

8 MR. KOSKIE: Yes. Perhaps Mr. Ward could  
9 assist us on that.

10 THE COMMISSIONER: You are a member, are  
11 you?

12 MR. WARD: Yes.

13 THE COMMISSIONER: I am curious, because  
14 when it came in, I had difficulty making any inquiries  
15 about it.

16 MR. KOSKIE: It is a newly-formed associa-  
17 tion. Perhaps Mr. Ward can assist us in that regard.

18 MR. WARD: Actually, Mr. Commissioner, the  
19 Canadian Association of Professional Safetymen is just a  
20 name tagged on to a bunch of individuals who have the  
21 qualifications put on that sheet which was put in front of  
22 you.

23 THE COMMISSIONER: The people that form  
24 the association meet the qualifications that are outlined  
25 here?

26 MR. WARD: Yes, and it is the feeling of  
27 the older membership - I will just read an excerpt from a  
28 little booklet which is called "Accident Facts" which was  
29 issued by the National Safety Council. Patrick Henry said:  
30 "I have but one lamp by which my feet are guided, and that





1 lamp is the Lamp of Experience". Our efforts have been  
2 thwarted by people who have never been in this capacity  
3 dictating general policy. My opening remarks to the Com-  
4 mission were that our primary interest is that people stay  
5 alive for many reasons, economic and otherwise. I think  
6 in our modern society it is a sad thing if we cannot get  
7 the utmost protection for persons, and we feel that such a  
8 group as our own can do nothing but good in the future.

9 We are not big at the present time, but we have people with  
10 qualifications who first joined us, and we hope that they  
11 will add to our usefulness in the code of accident preven-  
12 tion, and that, primarily, is the code of this Association.

13 MR. KOSKIE: By a glance at this document  
14 we have filed, you will notice that one of the membership  
15 qualifications is that a person shall be at least 28 years  
16 of age and have a degree from a college or university and  
17 is, or has been, full time, for a minimum period of four  
18 years, engaged in the direct control of the physical sur-  
19 roundings which, if left unattended, may have caused an  
20 accident with possible resultant injury. And over the  
21 page: "Engaged in the development of creating optimum safe  
22 climate through the application of engineered control  
23 techniques as a primary approach, for a minimum period of  
24 one year." And there are various other technical qualifi-  
25 cations of persons who wish to become members of this  
26 Association. These are the kind of qualifications which  
27 we feel should be considered, and perhaps could be the  
28 subject of regulations under the Workmen's Compensation  
29 Act, if our submissions were to be adopted of having cen-  
30 tralized supervision or accident prevention agency.







1 THE COMMISSIONER: It says as an alterna-  
2 tive to a college degree shall have been engaged, full  
3 time, for a period of four years as outlined in item a.  
4 All right, thank you.

5 MR. KOSKIE: Mr. Commissioner, it is of  
6 some interest to relate to one particular advertisement  
7 contained in a newspaper published by the Construction  
8 Safety Association, called "The Safety Counsellor", and in  
9 this particular edition I am referring to reference /made  
10 to a person who joined the Construction Safety Association  
11 of Ontario as Executive Assistant to the General Manager,  
12 and it lists his qualifications, the only one being that  
13 this person has considerable marketing experience and  
14 marketing background in the consumer field, which they say  
15 will be very helpful in furthering the aims of the associa-  
16 tion in the prevention of accidents in the construction  
17 industry. Now, as opposed to that, as a matter of interest,  
18 we have here a copy of a classified advertisement from an  
19 American Journal on safety. The reference here is safety  
20 engineer, and if I may just read the qualifications they  
21 are asking for in this....

22 THE COMMISSIONER: What is the name of the  
23 organization they are advertising?

24 MR. KOSKIE: Fire News is the name of the  
25 article.

26 THE COMMISSIONER: What is the organiza-  
27 tion that is seeking a counsellor?

28 MR. KOSKIE: They haven't mentioned the  
29 name of the organization. It is Yale University, but I  
30 don't believe that the particular person whom they were





1 looking for would be employed by the University. The  
2 qualifications: Applicant must have --

3 THE COMMISSIONER: It doesn't help much if  
4 we don't know what the company is.

5 MR. KOSKIE: There is another one here --

6 THE COMMISSIONER: What we have got is a  
7 recommendation that the qualifications be required here.  
8 What is the use of reading what they require somewhere  
9 else?

10 MR. KOSKIE: Fine. If I may just proceed  
11 on the brief, at page 26, where we set out the procedure  
12 which we recommend for the issuing and enforcement of  
13 inspectors' orders:

14 (i) An inspector is to have the authority  
15 to issue orders to comply and/or stop  
16 work immediately upon discovering a  
17 safety breach. It is within the  
18 discretion of the inspector whether  
19 time will be given for compliance  
20 prior to the issuance of a stop work  
21 order, but if the safety breach is  
22 the least bit hazardous and dangerous  
23 to workmen, the stop work order must  
24 be issued immediately.

25 (ii) The inspector must file any stop  
26 work orders with the Supreme Court  
27 of Ontario, and any party found at  
28 a subsequent time to be in breach  
29 thereof will be held in contempt  
30 of Court, unless in the interim the





1 order is rescinded in the manner  
2 hereinafter set forth.

3 (iii) An inspector is to have the authority  
4 to rescind his stop work order if  
5 there has been, in his opinion,  
6 substantial compliance with the  
7 original order to comply, and the  
8 safety breach has been rectified.

9 THE COMMISSIONER: I think you might find  
10 the Supreme Court would have something to say about that.  
11 I don't think I like that very much.

12 MR. KOSKIE: Perhaps it is misunderstood,  
13 Mr. Commissioner. We don't suggest that the inspector  
14 could find that the particular person in breach of the  
15 order/<sup>is</sup>in contempt of court. It would be making provision  
16 for the filing of the order. If the particular person did  
17 not obey the order, then the court could find that person  
18 in contempt of court. Under section 96 (1) the Board  
19 issues an order there, it files the same automatically  
20 with the Supreme Court of Ontario and it has the same effect  
21 as a Supreme Court order and a person at that stage could  
22 be subject to contempt of court procedure. We don't mean  
23 to suggest that an inspector would have the power to say  
24 that a particular contractor was in contempt of court.

25 (iv) If the inspector refuses to rescind  
26 his stop work order, any party may  
27 appeal to the central authority (i.e.  
28 the special panel of the Workmen's  
29 Compensation Board) which we have  
30 earlier suggested, requesting the







1 rescinding of the stop work order.  
2 The onus shall lie on the applicant  
3 of proving to the satisfaction of the  
4 panel that the safety breach has been  
5 rectified and that any hazard or danger  
6 to workmen has been removed.

7 In this particular paragraph, we would also  
8 suggest that the inspector should still be able to proceed  
9 with the prosecution and he should do so forthwith.

10 (v) An inspector is to enforce all orders  
11 to comply not accompanied by stop  
12 work orders, by laying an information  
13 before a Justice of the Peace for a  
14 breach of any Act for which offences  
15 are provided.

16 I have nothing more to say with respect to  
17 the enforcement procedures, unless Mr. Estey wishes to  
18 question on that now, before I go on.

19 (f) The central authority should sponsor  
20 a monthly publication or bulletin, available to the public,  
21 reporting all inspectors' orders to comply or stop work  
22 (including the nature of the operations affected by such  
23 orders), convictions and fines registered, and appeals  
24 heard.

25 (g) The central authority must exercise  
26 all powers to ensure absolute compliance with any statu-  
27 tory or regulatory requirement that the name and telephone  
28 number of an appropriate inspector be placed prominently  
29 on the job.

30 Mr. Commissioner, one of the reasons we





1 have advocated the enforcement procedures and as outlined  
2 earlier, on page 26, is that we must be aware that we are  
3 dealing with the lives of workmen here, and unless there is  
4 some procedure available which would compel an employer to  
5 actually comply with a stop work order, then I am afraid  
6 we are liable to get into the position where it takes  
7 months or weeks to get the matter into the Courts, and  
8 that is the reason we suggest that the inspector is requir-  
9 ed to file a stop work order with the courts. Of course,  
10 we appreciate that an inspector can err in judgement, and  
11 that is why we recommend that a party should be given the  
12 right to appeal to the central authority of The Workmen's  
13 Compensation Board to request that it be rescinded.

14 Now, I have no further statement on that,  
15 and I intend now to deal with the matter of Incentive  
16 Payment Plan. Perhaps, if there are any questions to be  
17 asked at this stage, they can be put now, Mr. Commissioner.

18 MR. ESTEY: I thought perhaps we would  
19 follow the same system we had before. None of these topics  
20 are very long. Would it be convenient for you to deal  
21 with them now and we will come back to them.

22 MR. KOSKIE: Fine. I refer to page 28 of  
23 the brief.

24 Incentive Payment Plan

25 The Workmen's Compensation Act in Section  
26 86(6) provides for a merit system whereby the Board may  
27 reduce the amount of any contribution to the Accident Fund  
28 for which an employer is liable if such employer is taking  
29 accident prevention precautions and has a good accident  
30 record. Similarly, Section 99(3) provides for the adoption





1 of a system of merit rating. However, we would submit that  
2 the present use of such systems provides insufficient in-  
3 centive for employers to spend the necessary funds for  
4 safer working conditions. The biggest difficulty with the  
5 present system is that it is not compulsory, and is left  
6 to the discretion of the Board. A good accident record in  
7 one year is no guarantee that an employer's contribution  
8 to the Accident Fund will be reduced in the next year.

9 We recommend that serious consideration be  
10 given to adopting an incentive payment plan whereby an  
11 employer's contribution would be automatically reduced if  
12 a favourable accident record were established in the pre-  
13 ceding year.

14 THE COMMISSIONER: You are aware that they  
15 did have it in operation for some years and finally they  
16 dropped it.

17 MR. KOSKIE: Yes. I wish to add some fur-  
18 ther comments which are not necessarily in the brief. We  
19 are adopting certain portions of the brief of the Safety-  
20 men's Association, and I am reading from page 1, from the  
21 Safetymen's Association brief.

22 THE COMMISSIONER: The situation is that  
23 you want to read in a brief that people have already with-  
24 drawn.

25 MR. KOSKIE: They have withdrawn it, but,  
26 on the other hand, we approve certain submissions.

27 THE COMMISSIONER: Well, you tell us the  
28 submissions you wish to deal with.

29 MR. KOSKIE: We approve, for example,  
30 making a comparison --







1 THE COMMISSIONER: Please give it to me in  
2 some other form than reading from their brief. I am not  
3 going to have you read in, as part of the record, a brief  
4 which has been withdrawn.

5 MR. KOSKIE: Fine. If I may, then, elabor-  
6 ate on the submissions which we have made. With respect to  
7 the incentive payment plan, Mr. Ward has been kind enough  
8 to provide us with a chart indicating the amount of compen-  
9 sation paid by the Workmen's Compensation Board in respect  
10 of employees of a certain company, the name of which will  
11 remain nameless for these purposes and various other  
12 statistics show this, Mr. Commissioner, that we have the  
13 situation where the company does invest large sums of money  
14 in accident prevention and it is successful in reducing the  
15 number of accidents. What, in effect will occur, is this,  
16 that the company, the Workmen's Compensation Board will pay  
17 out less money in connection with claims made by employees  
18 of this company than the company has paid towards the Work-  
19 men's Compensation Board for its contributions. The sig-  
20 nificant fact is that the company is not entitled to, or  
21 does not obtain any rebate. Mr. Ward has prepared this  
22 and he can, perhaps, explain it to you. I will file copies.

23 EXHIBIT NO. 35: Monies paid to the various W.C.B.'s  
24 across Canada and the amounts they  
25 paid out on behalf of injured  
26 workers.  
27  
28

29 MR. WARD: Mr. Commissioner, this submission  
30 is a table which I drew up on behalf of management for





1 their information. If I may explain the right hand column  
2 you will see either a positive or a minus sign. This  
3 positive sign indicates where this is in the black and  
4 the negative indication would be in the red with the var-  
5 ious Compensation Boards. This sheet does not only deal  
6 with Canada, it deals with certain operations in the USA.  
7 However, if we could take, for instance, one as an example,  
8 which is the fourth item down in the fourth horizontal  
9 column of page 1, we see here that the compensation paid  
10 out by the Compensation Board was \$47,028.34. Medical aid  
11 paid by the Board on behalf of the company was an addition-  
12 al \$28,248.69. Assuming the Compensation Board, approxi-  
13 mately over and above these figures, has an administration  
14 cost which is approximately, I think, around the region  
15 of 17 per cent which, I believe, also includes the disaster  
16 fund, we have a figure there of \$11,291.55 giving a grand  
17 total of \$86,568.58. The company, on the other hand, paid  
18 the Compensation Board \$141,532.86, leaving a figure of  
19 \$54,964.00 to the good of the Board.

20 We can use this for an example as company  
21 A. On the other hand, company B may have a similar pay-  
22 ment to the Board but the amount of money which they take  
23 out of the Board would probably put them in the red, that  
24 is, the Board would pay out more than they would pay into  
25 the Board. So actually, Company A may have spent a lot  
26 of money on accident prevention. For instance, in the  
27 particular instance of this company, there is a safety  
28 director, there is an assistant safety director, there was  
29 a safety man employed. The safety director had the auth-  
30 ority of management wherever he found necessary, according





1 to the nature of the work and the exposures that the em-  
2 ployees might be exposed to, that he could go ahead on  
3 his own premise and employ additional safety men. So you  
4 can see that the cost to the company, (actually, while these  
5 people were just initially a salary cost and their basic  
6 administration from their payroll and so on and so forth,)   
7 these safety personnel are going to ask for hard hats,  
8 they are going to ask for safety shoes, they are going to  
9 ask for gloves, they are going to ask for eye glasses, they  
10 are going to ask many, many things which company B did not  
11 provide. So there is no incentive, actually, at all to  
12 company A, to spend this money only from a sheer humani-  
13 tarian point of view.

14 It is felt, Mr. Commissioner, and I think  
15 it would lend an emphasis of encouragement to management  
16 to spend money to protect their personnel, provide the  
17 proper safety devices and gear if, for instance, the  
18 Board could make it more rewarding by an incentive program  
19 of realistic nature. For instance, in the Ontario present  
20 set-up here, if the employers elected to go onto the in-  
21 centive program, I think they would probably get back  
22 somewhere around five or six per cent on the overall basis.  
23 I think it mentions 25 per cent, but it depends on how  
24 the calculation is arrived at.

25 In Alberta you can get back 25 per cent of  
26 the net initial payment to the Board. At the present time  
27 I believe the Boards are trying to initiate a program where-  
28 by the employers will, if they are eligible, get back up  
29 to 50 per cent of the total of the initial amount they  
30 paid to the Board to cover the cost. So you can see from







1 this that there is a great incentive. These figures here  
2 illustrate that there is a great deal of money paid into  
3 the Board. In column 2 there is a difference of \$44,000.  
4 here and there is no rebate to the company for this good  
5 record.

6 THE COMMISSIONER: I can understand the  
7 force of your argument, that one company which spends a  
8 great deal of money on safety measures, as a consequence,  
9 gets its record down and should get some consideration.  
10 On the other hand, you have in the Act, and it is imposed  
11 and enforced, a provision whereby any company which fails  
12 to keep its level down, goes out of line with experience  
13 in other companies, they get a penalty assessment and the  
14 other thing, of course, to be considered in anything of  
15 this kind, is the general principle of this insurance  
16 scheme. They spread the risk, they take the good, the good  
17 boys are pulled in with the bad boys and they all benefit  
18 by the joint insurance scheme.

19 Like any joint scheme, some people always  
20 do better by it than others. I just point this out, that  
21 it is a joint insurance scheme and this accounts for these  
22 discrepancies you point out. We have had representations  
23 from one or two companies that say, "Well, we have had no  
24 compensation cases at all for a year or two, practically  
25 nothing has been spent", and yet they are having to pay  
26 a substantial premium - I think it is the wrecking industry  
27 - because they belong to that class. And other companies  
28 in that industry are having a heavy loss and they are all  
29 being assessed the same amount.

30 MR. WARD: The reasoning that I have, Mr.





1 Commissioner, in this presentation, is the inducement in-  
2 centive and the net result is that people stay alive and  
3 I feel that my experience as an inspector was that there  
4 were many, many operations that were unsafe and it was  
5 felt that if these people were victimized, not necessarily  
6 through the court, but through an automatic assessment by  
7 the Compensation Board, as I understand there have been  
8 many double assessments in Ontario, and it has come to my  
9 knowledge, I don't know for sure, but hearsay, you possibly  
10 don't want to hear hearsay, but I think it may have some  
11 bearing that the Board is reluctant to invoke a double  
12 assessment, or whatever the situation may be. This has  
13 come to my knowledge. I am not sure whether all the people  
14 eligible for double assessment by the Ontario Workmen's  
15 Compensation Board under the premise of the existing legis-  
16 lation, I understand that only a few, if any, have been  
17 actually invoked. This actually detracts from an auto-  
18 matic system.

19 For instance, in Alberta, if I may elaborate  
20 at this stage, I think it is very crucial that the Board  
21 in Alberta does not necessarily base this incentive program  
22 on money alone, because their thinking is, and I think  
23 correctly so, that a company may, on its project, for  
24 instance, run a very safe operation. By the same token,  
25 maybe the superintendent may say to several of the men,  
26 "Get into a company vehicle and travel from point A to  
27 point B". In the process they might get killed. They are  
28 compensable and yet the company accident costs may be high.  
29 So that if you base it on money alone, it does not neces-  
30 sarily show a true perspective to the employer.





1                   However, the system in Alberta also has  
2 another provision that if, for instance - this is the  
3 advantage, I think, of having safety under the Compensation  
4 Board - you have the administration section and also the  
5 enforcement side. If, for instance, a company is eligible  
6 by assessment, to get a rebate, then the administrative  
7 side send this report to the safety people of the Board.  
8 The safety people of the Board take out the file on the  
9 company and take a look and see, in fact, what the actual  
10 intent of company management is in providing safe working  
11 conditions for the employees. If they have been on their  
12 jobs and their inspectors find that they always have to be  
13 requesting the employer to do something about safety or  
14 to provide something and this is repetitious, it would  
15 indicate that because they have a good record, it may be  
16 sheerly a case of luck. The safety department write back  
17 a report to the assessment department saying that on the  
18 basis of their inspections they feel that this should not  
19 be granted. I feel, on this basis, there is some merit  
20 in having safety inspections under the auspices of the  
21 Compensation Board where you have got the payment and the  
22 regulation governing the safe work regulations all under  
23 the same roof.

24                   THE COMMISSIONER:   We will adjourn for  
25 five minutes.

26  
27 --- Short recess.

28                   MR. KOSKIE:   Mr. Commissioner, as we  
29 indicated to you about two weeks ago, we had done some  
30 research ourselves in connection with the Alberta incentive







1 payment plan which I thought you had some interest in, and  
2 we filed with you, at that time, a letter addressed to our  
3 firm from the Workmen's Compensation Board in the Province  
4 of Alberta, dated September the 26th, 1966.

5 THE COMMISSIONER: I don't recall having  
6 seen it, but it has been filed, has it?

7 MR. KOSKIE: I have taken the liberty of  
8 making additional copies.

9 Since this letter, my associate, Mr. Atkey,  
10 as you can see by the letter, did correspond with the  
11 Board and we have actually corresponded further with the  
12 Workmen's Compensation Board, Mr. Commissioner, and we  
13 were expecting additional information but have not received  
14 it as yet. We do expect to receive it, we hope, this week  
15 at which time, we will either present it in person or file  
16 it with you. We believe it will be of some assistance.  
17 We have, in effect, asked for certain views of the Workmen's  
18 Compensation Board comparing our system with theirs and it  
19 may be helpful to you.

20 I would like Mr. Atkey now to deal with the  
21 provisions of the Alberta Workmen's Compensation Act.

22 MR. ATKEY: Mr. Commissioner -

23 THE COMMISSIONER: These provisions, of  
24 course, are already in our Act. I mean, not in this detail  
25 but there is a provision, as you have read, 86, I think  
26 it was, which permits this system to be in effect.

27 MR. KOSKIE: We are aware of that. Mr.  
28 Atkey will comment upon it, sir.

29 MR. ATKEY: Mr. Commissioner, that was  
30 actually my first point, that on the face of the legislation





1 they are almost identical between the two provinces. Based  
2 on the information received from the Board in Alberta,  
3 however, underlying the legislation, it is our submission  
4 that there is perhaps a significant difference and I think  
5 it is a matter of emphasis. Both provinces have a merit  
6 system and a demerit system; they can rebate and they also  
7 have a so-called super-assessment but the emphasis in  
8 Alberta seems to be on the positive incentive aspect; in  
9 other words, at this point they are willing to go as high  
10 as a 25 per cent rebate on the amount of contribution paid  
11 by an employer in a particular year and, as Mr. Ward pointed  
12 out, this is being considered, perhaps raising it to 50 per  
13 cent of apparent rebate and it provides a very real incen-  
14 tive which we are not convinced that the Ontario system  
15 presents.

16           The Ontario system, under Section 86, sub-  
17 section (6), of course, leaves it in the discretion of the  
18 Board and, as Mr. Ward pointed out, occasionally there is  
19 a 2 per cent to 6 per cent rebate, occasionally it has gone  
20 higher but there is no known guarantee, so to speak, to an  
21 employer who is willing to invest substantial funds in  
22 safety. We might perhaps compare it by saying that in  
23 Alberta there is an incentive or reward for spending money  
24 on safety.

25           THE COMMISSIONER: Mr. Atkey, this company,  
26 perhaps the one in Kingston, a small company which I  
27 referred to previously, does not spend any money on safety  
28 but just has a clear accident record - luck or bad luck or  
29 what have you. Under this system, wouldn't they be entitled  
30 to having it written down by 50 per cent?





1 MR. ATKEY: As Mr. Ward pointed out, if  
2 it is strictly a question of luck with the centralized  
3 authority, there is an interaction between the assessment  
4 department of the Board and the accident prevention assess-  
5 ment and if the accident prevention section makes the  
6 assessment department aware that, in fact, the particular  
7 employee has been a flagrant violator of a number of rules  
8 and has just got lucky, then the Board, in its discretion,  
9 does not give them an automatic 25 per cent. There is this  
10 so-called catch factor built in. Admittedly, this would  
11 be a very rare case indeed but they have this protection  
12 against the very situation you are mentioning.

13 THE COMMISSIONER: A small company in  
14 Kingston that has this good record and think they are  
15 badly treated because they have to pay a higher assessment  
16 to the Board when they don't get any compensation back  
17 for their employees because they don't have accidents,  
18 tomorrow could have a very serious accident which, in a  
19 small company, if it went to litigation, they would go  
20 into bankruptcy and would not be able to pay. This is  
21 part of the scheme that one employer by the joint insur-  
22 ance scheme, they all underwrite the risk and the workman,  
23 in turn, has the benefit of knowing that he is going to  
24 recover compensation no matter whether the small employer  
25 would otherwise have been able to pay it or not. That is  
26 all that bothers me at the moment. You go ahead and read  
27 this. I am very interested in it.

28 MR. ATKEY: Well, of course, you are  
29 enunciating the basic principle underlying Workmen's  
30 Compensation, the insurance principle and we do not







1 derogate completely from this principle but we do suggest  
2 that there should be a variation greater than the present  
3 degree on the incentive side and we say that that variation  
4 should be along the lines of the present demerit degree.

5 Under sub-section 6(a) the demerit system  
6 and the regulations they provide for a double assessment,  
7 which is a pretty serious assessment. In the case of a  
8 big company it can amount to a substantial amount of money.  
9 We don't advocate a double merit rebate; we are merely  
10 suggesting that 25 per cent in the case of a company --

11 THE COMMISSIONER: Well, let us see what  
12 these people do. Do you have to read it all in order to  
13 tell us?

14 MR. ATKEY: I can. I believe this has  
15 been read into the record before.

16 MR. KOSKIE: It was not read in, I just  
17 believe it was filed, Mr. Commissioner.

18 MR. ATKEY: I will read it in, then. Under  
19 the Merit Rebate Plan, this is the positive side:

20 "1. A merit system is applied to such  
21 classifications as are from time  
22 to time designated by the Board  
23 and applies only to those employers  
24 in the classifications:-

25 (a) who have had an account continu-  
26 ously with the Board for not less  
27 than the latest three full fiscal  
28 years, and

29 (b) whose total assessments exceed  
30 the sum of \$300.00,





(c) whose current year's assessment exceeds the sum of \$100.00,

(d) whose percentage of claims costs to assessment for the latest three year period is less than 75%,

(e) whose percentage of claims costs to assessment for the current year is less than 75%.

2 Where an employer qualifies under the foregoing requirements, such employer may be allowed a merit rebate of 1% of his actual adjusted assessment for each full 1% his ratio of costs to assessments is less than 75%, to a maximum of 25% of the actual assessment."

You see, Mr. Commissioner, it is on a sliding scale depending on the degree of success.

"3. The Board may refuse to allow or apply a merit rebate to or in favour of any employer,

(a) who has not complied with the Board's safety regulations or directions regarding the safe conduct of his operations,

(b) who is conducting his operations in a manner which in the opinion of the Board renders such employer disentitled to a merit rebate, or

(c) whose account with the Board, or





any part of it, was or is in default.

4. A merit rebate shall not reduce the assessment for the current year to less than \$100.00, and the total assessment to less than \$300.00.

5. Where an employer engages in two or more industries coming within the scope of the Act, and has therefore two or more accounts with the Board, each account is considered on its own basis, and without regard to any other account, for the purpose of merit."

I will stop there, Mr. Commissioner, if you have further questions on the merits.

THE COMMISSIONER: I understand it.

MR. ATKEY: Commencing with the Super-Assessment Plan, the Ontario equivalent being the demerit system

"1. A system of super-assessment is normally applied each year to the employers in those classes to which the Board has applied the merit credit plan.

2. An employer shall be super-assessed if  
(a) his assessment for the current year or any part thereof is not less than \$100.00, and  
(b) his percentage of claims costs to assessment for the current year is more than 105, and







(c) his percentage of claims costs to assessment for the latest three year period or for such shorter period than three years during which he has been operating is more than 105.

3. The super-assessment shall be calculated at the rate of 1% of the employer's assessment for the current year for each full 1% the percentage of claims costs to assessments for the period under 2(c) above exceeds 105 provided that where the percentage is more than 130 the super-assessment shall be at the rate of 25%.

4. Where a super-assessment amounts to less than \$10.00 such super-assessment shall not be applied.

5. A super-assessment shall form part of the experience account of an employer.

6. Where an employer has been super-assessed in two consecutive years as a result of the claims cost of any one accident, the subsequent claims cost of such accident thereafter shall be considered to not form a part of the employer's experience in determining a super-assessment unless the Board directs otherwise."

And then there is an additional annotation





1 to the super-assessment paragraph:

2 "It should be noted that claims costs  
3 which are not recorded in an employer's  
4 experience account until after the end  
5 of the next two fiscal years following  
6 the year in which the accident occurred  
7 shall be classified as Delayed Claims  
8 Costs and shall be excluded from the  
9 employer's experience for the purpose  
10 of calculating merit rebates and super-  
11 assessment except in a case where the  
12 Board directs otherwise."

13 So, in conclusion, in comparison of the two  
14 Acts, Mr. Commissioner, we would submit that the Ontario  
15 Act does not sufficiently emphasise the positive side of the  
16 incentive plan. The penalty is overly sufficient and I  
17 believe the present Act does take adequate steps to ensure  
18 that employers who are frequently violating safety regula-  
19 tions are assessed accordingly. However, there is not a  
20 sufficient reward or incentive to induce them to invest  
21 sufficient funds in safety.

22 THE COMMISSIONER: From what we have heard  
23 from these accident prevention associations, there is a  
24 very strong incentive on the class to reduce them and that  
25 is why they say they are so anxious and keen to make the  
26 accident associations a success and why they have been so  
27 successful, because they all suffer if their accident  
28 incidence is high or low - whether it is high or low, that  
29 is how they are assessed.

30 MR. GALLAGHER: Mr. Commissioner, I would





1 like to add one point. We spend our time trying to do  
2 what we can to assist the employer to make jobs safe and  
3 so on and, in spite of all the remarks made by associations,  
4 our men still continue to die and are maimed and so on.  
5 We have, in the City of Toronto here, many, many good  
6 contractors who, of their own volition and because of their  
7 humane attitude and because they are responsible people,  
8 are spending a great deal of money to make the job safe.  
9 On the other hand, we have got equally large companies who  
10 are doing the opposite, in our view, and in consequence  
11 we are forced, to save the lives of our people, to continu-  
12 ously stop these jobs.

13 Now, contrary to what some people say, we  
14 do have regard for good employers and we do respect them  
15 and we do not stop their jobs; we try to assist them. In  
16 this highly competitive system which we have, which I am  
17 not going to argue about, decent contractors are put out  
18 of business by contractors who will put no money at all  
19 in for safety and take whatever chances they have to take.  
20 This is why we support the idea of a stronger incentive  
21 system because we honestly believe that it will protect  
22 the decent contractors who are trying to compete against  
23 what we would call racketeers.

24 MR. KOSKIE: I have no further submissions,  
25 Mr. Commissioner, to make in respect of the incentive  
26 payment plan, subject, of course, to any further documen-  
27 tary evidence we do receive from the Workmen's Compensa-  
28 tion Board of the Province of Alberta which we will submit  
29 to you.

30 Now, if I may next deal with the matter of







1 publicity which, if I understand correctly, would deal  
2 with such matters as television advertisements and posters  
3 and other advertising media which are used by the Workmen's  
4 Compensation Board and by the safety associations which,  
5 under its sponsorship --

6 THE COMMISSIONER: According to the evidence  
7 which we have heard this morning, the proportionate amount  
8 that is spent on that is very small in proportion to the  
9 amount that is spent in educational facilities in the plant.

10 MR. KOSKIE: Mr. Ward can assist us in  
11 that, Mr. Commissioner.

12 THE COMMISSIONER: It may be different in  
13 different associations. Mr. Ward's experience appears  
14 to have been with the Construction Accidents Association.

15 MR. KOSKIE: Yes, unfortunately, by reason  
16 of the nature of the work performed by the Labourers'  
17 Union, our experience is limited only to that of construc-  
18 tion. I believe, though, Mr. Ward's experience will per-  
19 haps go beyond the construction industry field and he will  
20 assist us on that particular point.

21 Now, if I may read from the brief, sir, at  
22 page 29, beginning with Television Advertisements:

23 The Workmen's Compensation Board pays out  
24 about 3 per cent of its annual assessment to Accident  
25 Prevention Associations for the promotion of various  
26 safety measures. A great portion of these funds are used  
27 in costly television advertisements. We are of the firm  
28 opinion that the impact of these advertisements does not  
29 always justify the expense involved, and that the funds  
30 might be more wisely spent in "on the job" safety lectures,





1 visual aids, safety equipment and rigorous inspections,  
2 when the minds of the employees and employers are geared  
3 to the actual work being undertaken.

4 We also have some comments in regard to the  
5 visual aid processes which are adopted by the associations  
6 which come under the Board's jurisdiction. You have no  
7 doubt seen many of these posters, perhaps shown on tele-  
8 vision or appearing in the newspapers and various other  
9 places. Mr. Ward is personally familiar with these and I  
10 would like to ask him to comment upon them. The first  
11 group we have, we generally have categorized as posters  
12 and advertising media which we feel has no impact whatso-  
13 ever on the average workman and serves no useful purpose  
14 and there is a series of posters here, which I would like  
15 to introduce through Mr. Ward and have him comment on them.

16 MR. WARD: Mr. Commissioner, there are  
17 various types of posters which are being developed. For  
18 instance, here we have a chap on the beam and it says,  
19 "Stay Alive" and he has got his pant leg caught in the  
20 Neilson stud of a beam.

21 THE COMMISSIONER: Wouldn't that make sense  
22 if he was wearing loose clothes instead of some other type?

23 MR. WARD: I think the medium of communica-  
24 tion here is, we say "Stay Alive". Actually, this is  
25 written into the safety regulations that you never walk on  
26 the top of a beam. You always straddle the beam and walk  
27 the bottom flange.

28 THE COMMISSIONER: Maybe it is, but I  
29 watched them build that building across from my Chambers  
30 in Osgoode Hall and I saw them walking the beams constantly.





1 MR. WARD: This is true. Therefore, it  
2 would indicate that the foreman whose general, overall  
3 responsibility is for safety, is not fulfilling his obli-  
4 gation so, therefore, it would have an adverse affect. We  
5 submit this as not necessarily a poor poster, but we think  
6 it is not a good poster from certain points of view.

7 MR. KOSKIE: The point being this, that I  
8 don't think the average workman needs to be told that he  
9 should stay alive.

10 THE COMMISSIONER: You see it in all other  
11 types of advertising too. It is to emphasise the fact that  
12 he ought to have his trouser leg, if he is going to be up  
13 there under those circumstances, tighter. However, go  
14 ahead with the rest, because I would assume that these  
15 things are an aid to what we have been told is done at  
16 the plant level and that is have periodic safety meetings  
17 with employees or employees with the safety associations  
18 that exist at plant levels and these help to emphasise what  
19 has been talked about otherwise.

20 MR. WARD: This one, again, suggests that  
21 a fellow use his brains and avoid a sprain. I am sure a  
22 lot of people who get strains sometimes use their brain  
23 too and this is of an insulting nature and I think it has  
24 a detraction from the desired result.

25 THE COMMISSIONER: It seems to me we are  
26 getting down to something that, at the moment - we have a  
27 chance to hear but we can't see the type of advertising  
28 that has been done in every industry every place and it  
29 seems to me we are getting down to something that is  
30 irrelevant. If you want to talk to me and tell me that







1 there is too much money being spent on television and you  
2 have got some ground on which to do it, I would be more  
3 inclined to listen to it than to this, because, for instance,  
4 the figures we were given this morning on what was being  
5 spent by the Lumbermen's Association, the Preventive  
6 Safety Association, out of a budget of \$160,000 the amount  
7 spent for posters was \$3,500 and the amount spent for  
8 television was \$350. It might differ in some others but  
9 this, after all, is a heavy disbursement on posters and it  
10 may do some good. If it does some good then there is some  
11 justification for it and if it is a difference between  
12 \$10,000 or 20,000 or \$30,000 on the budget of that size,  
13 I don't think it is too important.

14 MR. GALLAGHER: Mr. Commissioner, if I  
15 may for just one moment, we perhaps could have shown the  
16 good side of the story first. We are always critical.

17 THE COMMISSIONER: I am just trying to move  
18 it along. I don't want to spend too long on this, that  
19 is all.

20 MR. KOSKIE: Perhaps Mr. Ward can show  
21 you some of the posters which he is of the opinion would  
22 be more predominant than the other types which we feel  
23 have no real impact.

24 MR. WARD: These two posters, I will  
25 illustrate, Mr. Commissioner. These are in specific  
26 detail and these posters offer some information to people.  
27 Say, for instance, a man who is put in charge of a small  
28 trench crew. This provides him with some guide lines and  
29 details so that actually, if he follows the general guide  
30 lines, he doesn't get killed or he doesn't have his





1 crew killed. This is more tangible and I think more con-  
2 structive.

3 THE COMMISSIONER: Well these are con-  
4 structive suggestions.

5 MR. WARD: Yes, constructive suggestions.

6 THE COMMISSIONER: Well your suggestion to  
7 instruct the crews might have some effect but I don't think  
8 I can get it here.

9 MR. KOSKIE: Perhaps Mr. Ward could talk  
10 about the use of television media in accident prevention.

11 THE COMMISSIONER: Yes, I would like to  
12 hear that. It was relatively small in the one I mentioned.  
13 I have no doubt it can be expensive.

14 MR. ESTEY: Do you want to dispose of those  
15 posters by putting them in as one bundle altogether?

16 MR. KOSKIE: Yes, we are prepared to do  
17 that.

18 EXHIBIT NO. 36: Bundle of posters.  
19

20 MR. WARD: Regarding television broadcast-  
21 ing, this is of a very, very expensive nature. We feel  
22 that the import of the communication being delivered to  
23 the workman does not gain the desired results. For instance,  
24 I have sat around and probably quite a few people in this  
25 room have sat around and seen a communication come across  
26 the TV screen, "Be a professional at work. Work safely".  
27 This sort of thing, when that individual person, as I have  
28 seen in many individuals myself, goes to work and he has  
29 got no control over the material which he is required, for  
30 his own safety in certain occupations, to wear; for instance





1 he can't go out and order a piece of 2 x 4 for a guard  
2 rail, he has not got the licence, he has got to have a  
3 licence to leave his station and go down below and bring  
4 up a 2 x 4 for his job. He just hasn't got the licence to  
5 do this sort of thing. So, while he may receive the com-  
6 munication, we feel the objects and aims submitted in  
7 these posters / should be something of a tangible nature which  
8 people can learn from. I feel, personally, that the com-  
9 munication to a person on a construction job should be,  
10 for instance, the labourer who is going to put up some  
11 planks on a scaffold, he wants to know, basically, what  
12 2 x 10 at a certain span is going to sustain. Then he can  
13 multiply this out, or we can say four planks, 2 x 10 on a  
14 scaffold with 8 feet span is going to provide so much  
15 support.

16 THE COMMISSIONER: You say it should be  
17 instruction at the plant level and that the expensive type  
18 of thing as you see it on television, is of little  
19 assistance.

20 MR. WARD: That is my personal view, Mr.  
21 Commissioner.

22 THE COMMISSIONER: It is hard to say how  
23 many people look at it anyway or will see it. What is the  
24 television you are referring to? Who puts that out?

25 MR. WARD: This one in particular, I believe  
26 is the Construction Safety Association and I think also,  
27 there has been another point that has been brought to my  
28 attention and very often these TV skits come out during  
29 working hours when the men are not home. They are being  
30 flashed to wives when they are cooking and so on.







1 We are led to believe, we are not sure of  
2 these figures, Mr. Commissioner, but again we are led to  
3 believe that somewhere in the region of three-quarters of  
4 a million dollars is being spent --

5 MR. ESTEY: We could help you out there,  
6 Mr. Ward. The Board has just given me the figures for the  
7 Construction Safety Association television advertising.  
8 I think this is to date in 1966.

9 MR. KERR: Budget for 1966.

10 MR. ESTEY: Budget for 1966 television,  
11 \$408,000, radio \$32,000, newspapers \$14,000 and that totals  
12 \$454,000 which is the budget for mass media in 1966 and  
13 those are rounded figures.

14 THE COMMISSIONER: That is a much larger  
15 sum than what we heard this morning.

16 MR. WARD: We recommend that these funds  
17 could be used to a greater advantage by employing teams  
18 of safety men. I think, actually there is nothing greater  
19 in my own personal experience, that safety is not manage-  
20 ment's total responsibility, it is not the worker's total  
21 responsibility and it is not, for instance, labour move-  
22 ment's responsibility; it is a coordinated responsibility  
23 at all levels and consequently the workman has got some-  
24 thing to say about the situation. The way I conduct my  
25 on-job safety education to try and gain cooperation is  
26 that when I go on a job I act as a moderator of the  
27 situation because I feel that the man who is working on  
28 top of a 300 foot tower knows more about his environment  
29 regarding wind than I know. So, consequently, when we sit  
30 down we talk about the various problems which he has and





1 I feel that by getting this individual interested and let-  
2 ting him talk we feel that there is a great advantage in  
3 training safety personnel to allow the men to talk so that  
4 they become interested by participation. We feel that this  
5 medium of bringing everyone into the picture, whether it is  
6 as a foreman or by acting as a moderator to encourage his  
7 crew to work safely, whether it is perhaps done by provid-  
8 ing the safety gear by which the man sustains himself in  
9 certain areas or whether it is the information submitted  
10 by the workman, everyone has to act as a team. We feel  
11 that the advantages over and above the fact of television  
12 broadcasting, this expenditure could be diverted into an  
13 avenue whereby you had people trained in this field to go  
14 out on the jobs and assist management and the foremen and  
15 to work themselves by sort of implementing on job safety  
16 assistance.

17 MR. GALLAGHER: Mr. Commissioner, again a  
18 small point. This is a Labourers' Union presentation and,  
19 of course our mind is oriented from that point of view. We  
20 understand there are other aspects of the Compensation Act  
21 throughout the Province of Ontario. But I have not yet been  
22 able to find one of our members who ever saw, or if he did  
23 see, <sup>ever</sup> heed one of the television items. We have been say-  
24 ing to contractors for years to get safety committees going  
25 in the construction field and they have been telling us the  
26 cost and we want it in the company's time. We ask for as  
27 little as 15 minutes a month which we thought would be  
28 worthwhile. Since all the employers we have ever met want  
29 to save lives, when I ask for 15 minutes, that is different;  
30 that is production lost.





1 THE COMMISSIONER: 15 minutes for what?

2 MR. GALLAGHER: For the month.

3 THE COMMISSIONER: For safety talks?

4 MR. GALLAGHER: Yes, just that much.

5 THE COMMISSIONER: Safety talks by whom?

6 MR. GALLAGHER: On the job with perhaps  
7 the municipal inspectors, the job inspectors, the manage-  
8 ment and our people. We have got a captive audience there.

9 THE COMMISSIONER: Don't you have any  
10 safety instruction in your Union on the ground level?

11 MR. GALLAGHER: Yes, I was expecting you  
12 to ask that, Mr. Commissioner. The fact of the matter is,  
13 we have given this great thought and we have tried very  
14 hard -

15 THE COMMISSIONER: Well, do you have? I  
16 mean to say, does the Construction Safety Association hold  
17 any meetings?

18 MR. GALLAGHER: We have, we go to them.  
19 But the fact of the matter is, we represent people who  
20 are, in some cases illiterate. I want to make my point.

21 THE COMMISSIONER: Will you please answer  
22 my question. Do you have sessions, as they apparently  
23 have in the mines, where the safety people come down and  
24 talk to them and say, "Well, this is what we think you  
25 should do"?

26 MR. GALLAGHER: Yes, we absolutely do, but  
27 I have to confess here that at Union meetings, unless we  
28 have specially called meetings, we get about 10 per cent.  
29 That is a very sad thing to have to say.

30 THE COMMISSIONER: I am talking about on







1 the job safety instruction.

2 MR. GALLAGHER: We have with some contrac-  
3 tors. As I said before, some contractors will have these  
4 meetings on the job with you voluntarily; others will  
5 resist this. We feel that with the people we represent,  
6 Portuguese, Italians, Irishmen, they are maybe not the  
7 brightest people in the world like myself, the fact of the  
8 matter is that we want them to be caught there. The company  
9 has these meetings with the top level, with the superin-  
10 tendents and the figures they give you here sound great.  
11 We have safety meetings every week, or every two weeks but  
12 they have a safety meeting in the office with a cup of  
13 coffee with the superintendent and our guys are still out  
14 there, they are not learning anything and they will piously  
15 say, "Go out there and make sure these things are carried  
16 out", and the point doesn't matter; we want on-the-job  
17 things more than anything else. We also have 75 per cent  
18 non-English speaking people and people say to me, of course,  
19 "Well, that is just your problem" but they are running  
20 this country and they should be looked after. The various  
21 posters and so on, should be in different languages and  
22 above all, the biggest job is our people should be told  
23 on the job, in the environment of their job, what they must  
24 do.

25 MR. KOSKIE: I think, Mr. Commissioner, Mr.  
26 Pike, who is a safety inspector of the Union, has some  
27 comment to make with respect to the safety meetings on the  
28 jobs.

29 MR. PIKE: Yes, Mr. Commissioner. In our  
30 Heavy Construction Agreement, which covers subway, bridge





1 work, all heavy construction work, section (a), says:

2 "A safety committee shall be established  
3 on each project. This committee will be  
4 composed of two employees, members of  
5 Local 183 of the Labourers' Union, two  
6 representatives from the contractor  
7 involved and a Chairman, who shall be  
8 the safety supervisor on the job. This  
9 safety meeting is not to exceed one each  
10 month."

11 THE COMMISSIONER: What do you say - they  
12 have to have one meeting each month?

13 MR. PIKE: At least one a month.

14 THE COMMISSIONER: Of the committee?

15 MR. PIKE: Yes. We find that the committee  
16 meets with the safety supervisor on the job but the super-  
17 intendent of the job, nor the project manager, simply  
18 haven't got the time to meet with this committee even though  
19 it is in our Agreement. We are taking steps to force them  
20 to attend those committee meetings now.

21 THE COMMISSIONER: But beyond that, this  
22 is your safety committee, but apart from that, what does  
23 your safety committee do about teaching the people on the  
24 job about safety measures?

25 MR. PIKE: They go into these meetings  
26 with the safety supervisor on the job listing various  
27 violations that have popped up prior to that and they  
28 complain to them. Safety meetings are supposed to be held  
29 also once a month for all employees and lectures are sup-  
30 posed to be given by the municipal inspector of the





1 Department of Labour inspector on the site. These I have  
2 never seen given yet.

3 THE COMMISSIONER: Is that in your Agree-  
4 ment, too?

5 MR. PIKE: This is in the Agreement.

6 THE COMMISSIONER: "A safety committee  
7 is to be established on each project. This committee will  
8 be composed as follows, the committee shall meet once a  
9 month and shall be the responsibility of the project  
10 safety supervisor to bring to this meeting details" and  
11 so on. There is nothing there, though, - oh yes, "Safety  
12 meetings not to exceed one per month, will be held on each  
13 project as deemed necessary by the safety committee who  
14 will make the necessary arrangements for these meetings".

15 MR. PIKE: That is correct.

16 THE COMMISSIONER: What arrangements do  
17 you make?

18 MR. PIKE: The safety committee make  
19 arrangements to set up a meeting for all the employees on  
20 the job and they have attempted to set up this, or have  
21 these meetings and the employer, project manager or super-  
22 intendent does not seem to have the time to participate in  
23 this.

24 THE COMMISSIONER: They have not time to  
25 participate but you do have a meeting on the job and try  
26 and give safety instruction, do you?

27 MR. PIKE: Yes, we do, the safety committee  
28 meets at least once a month with the safety supervisor  
29 only, trying to get this done.

RL 30 MR. GALLAGHER: Mr. Commissioner, our







1 Safety Director, as we call him, cannot possibly cover  
2 3,000 or 4,000 men in any project, so he can't attend all  
3 of these meetings. We have to depend on the steward on the  
4 job, to meet with management; and what I think should be  
5 done is, they should be required to have these safety  
6 meetings, not only with the committees. Especially a  
7 labourer, coming from another country, if you get too  
8 smart with that superintendent and try to enforce these  
9 regulations with the steward, you are right down the road.  
10 So we are doing the best we can to put safety factors in.  
11 It is a continuous struggle to try to get these meetings  
12 held, and so on. We want something which will make them  
13 have these meetings and then enforce. That is the whole  
14 trend of our presentation, trying to get a centralized  
15 authority.

16 MR. ESTEY: Mr. Koskie, so that the Com-  
17 missioner's question might get answered, are the meetings  
18 held by all the employers?

19 MR. PIKE: They are very seldom.

20 MR. ESTEY: Very seldom?

21 MR. PIKE: Yes.

22 MR. ESTEY: Thank you.

23 MR. KOSKIE: If I might just deal briefly  
24 with this point, Mr. Commissioner. On page 29 of the brief  
25 we briefly comment on safety in general.

26 Safety - The Legal Responsibility of the Employer

27 Unlike many of our brothers in the labour  
28 movement, it is our contention that the employer is solely  
29 responsible in law for safety measures on the job. We do  
30 not deny that labour should participate on voluntary





1 safety committees, or through representation on the Work-  
2 men's Compensation Board, or in implementing certain  
3 measures suggested or imposed by government. Further, it  
4 is our hope that labour will cooperate with any attempts  
5 to reduce the number of industrial accidents through  
6 stricter inspection or otherwise.

7                   However, in all cases it is the employer,  
8 not the employee, who has the ultimate control of each  
9 industrial site or activity. It is the employer who hires  
10 and fires, estimates the costs, makes the decisions to  
11 build or tear down or use one method of construction as  
12 opposed to another, etc. Therefore, the employer should  
13 bear the ultimate responsibility for providing or imposing  
14 safety measures, and the costs can be figured by him as a  
15 part of the contract price. When safety decisions are  
16 made, labour is too often rendered helpless by the over-  
17 riding considerations in the hands of management to effec-  
18 tively share the responsibility for such decisions.

19                   Now, on that point, Mr. Commissioner, I  
20 believe that under the present set-up of the various acts,  
21 and prevention associations under the sponsorship of the  
22 Workmen's Compensation Board labour does not have any  
23 representation on any of these associations, and therefore,  
24 we feel that labour should be given some voice in that  
25 regard if they are to appreciate some of the problems that  
26 are being faced by workmen on the jobs.

27                   Those are our submissions, Mr. Commissioner,  
28 in connection with accident prevention, and subject, of  
29 course to any questions that either yourself or counsel  
30 may have.





1 THE COMMISSIONER: Mr. Estey?

2 MR. ESTEY: Thank you, Mr. Commissioner.

3 Mr. Ward, I understand you are going to  
4 leave tonight for Chicago and, therefore, you won't be here  
5 tomorrow, so lest we run out of time, perhaps I might start  
6 with the points you discussed.

7 First of all, we are, of course, mainly  
8 interested in accident prevention, including enforcement  
9 procedures, and safety associations, and what I am going to  
10 ask you about is this. I take it, in your experience, which  
11 your counsel has explained to us, that there are two general  
12 kinds of inspection on a construction project. First of all,  
13 when you try to get a building permit, you have to get a  
14 building design and a building design which is compatible  
15 with building by-laws; and when you come to erect that  
16 building into a structure, you adopt a procedure, a method.  
17 I take it that under the present set-up, the municipality  
18 controls the design?

19 MR. WARD: Actually, if you are referring  
20 to safety as well, both.

21 MR. ESTEY: The municipality controls the  
22 design. If you try to get a building permit, you go to  
23 the municipality for the building permit. Is that right?

24 MR. WARD: Basically, that is right.

25 MR. ESTEY: Not only basically, it is right,  
26 it is right. And this is the product of an engineering  
27 work or architectural work; is that right?

28 MR. WARD: Not necessarily.

29 MR. ESTEY: Who designs it?

30 MR. WARD: It depends on the structure.







1 MR. ESTEY: What about this building?

2 MR. WARD: This building, possibly, yes.

3 MR. ESTEY: After these designs have been  
4 created, then the municipality applies the building code  
5 to it to see if it is adequate. That is what happens,  
6 isn't it?

7 MR. WARD: Yes.

8 MR. ESTEY: And after the building code is  
9 found to be complied with (that may take quite a while),  
10 then they release a building permit to the owner. Now,  
11 up to this point there hasn't been any consideration of  
12 safety, I take it.

13 MR. WARD: That is correct.

14 MR. ESTEY: Because what we are talking  
15 about is design, engineering, and that might take in safety  
16 from the point of view of the thing falling down, but it  
17 has nothing to do with the safety of the workman, except  
18 if it is poorly designed, you might get killed putting it  
19 up.

20 MR. WARD: That is right.

21 MR. ESTEY: So after you get the building  
22 permit, you call for tenders and get bids, and we will come  
23 back to the problem that that raises. Then we come into  
24 the area that your representations are really concerned  
25 with, that is the construction phase. You are concerned  
26 there, not with a design but with a method. It is the  
27 method which causes the accident, not the design, I take  
28 it, in most cases, and therefore, what you are talking  
29 about now is whether you are going to have municipal super-  
30 vision as we now have it, on the adoption of methods of





1 construction or whether you are going to have provincial -  
2 you call it central, but I think you mean provincial -  
3 inspection of the methods of construction, and that is  
4 really what we are discussing in your brief, is that right?

5 MR. WARD: That is right.

6 MR. ESTEY: We have it in the inspection  
7 of milk, we have it in hydro, we have it in the factory,  
8 design and procedures, and what you say is you want the  
9 same procedure in the construction industry?

10 MR. KOSKIE: We say it should apply to the  
11 construction industry. We also say it should apply to  
12 industry in general. We are speaking on behalf of the  
13 construction industry, but we say it should apply to all  
14 industry.

15 THE COMMISSIONER: I think it is the only  
16 one that comes to my attention where the safety regulations  
17 are enforceable by some other than a provincial authority.

18 MR. ESTEY: That is right. What you are  
19 saying is that it is all right for the municipality to  
20 control design, but for the actual implementation of the  
21 design, you would like the same inspection in construction  
22 that we expect to get in other areas where the province  
23 accepts the responsibility.

24 MR. WARD: There are certain areas of  
25 construction that are already controlled by the province,  
26 fire safety equipment, and so on.

27 MR. ESTEY: You not only want the province to  
28 accept responsibility here but you think that the best arm  
29 of that authority is the Workmen's Compensation Board. Is  
30 that what you are saying?





1 MR. KOSKIE: Yes.

2 MR. ESTEY: I take it, then, the inspectors  
3 you are talking about, who inspect the implementation of  
4 the building permit would, in your view, be properly those  
5 appointed under section 4 of The Construction Safety Act,  
6 and not section 5, section 4 being provincial authority  
7 and section 5 being municipal authority. It is limited to  
8 certain types of municipalities, but getting it down to  
9 the nuts and bolts, that seems to be your proposal.

10 MR. WARD: I am not clear on this last  
11 point.

12 MR. ESTEY: I take it, what you are saying  
13 is that this inspection should be implemented under section  
14 4.

15 MR. KOSKIE: For the province, that is  
16 correct.

17 MR. ESTEY: Then we come down to something  
18 else, that you say that the inspector should be a man of  
19 higher qualifications than they seem to be trying to get,  
20 as evidenced by the salary they pay and by the qualifica-  
21 tions they prescribe, that you only have to read the Act  
22 and get the hang of it. You want someone who can issue a  
23 stop-work order.

24 MR. KOSKIE: Yes.

25 MR. ESTEY: You say that the inspector  
26 should be able to come on the job and say, "You are not  
27 building this thing according to the way you should build  
28 it and, therefore, you stop building it until you do  
29 certain things". Who sets the standards the inspector  
30 brings to the job?







1 MR. WARD: The standard of his own personal  
2 qualifications.

3 MR. ESTEY: No, who sets the standards of  
4 the work?

5 MR. WARD: You mean the standards employed  
6 on the building scene?

7 MR. ESTEY: Who sets the standards of the  
8 work?

9 MR. WARD: I think the last disaster in  
10 Ottawa is a point in question.

11 MR. ESTEY: That is the bridge falling  
12 down?

13 MR. WARD: Yes. I don't think responsibil-  
14 ity should lie in this area. It is my suggestion at least  
15 that all work that is designed to carry a load should be  
16 designed and stamped by an approved engineer. I think a  
17 lot of accidents occur in this avenue, where the mechanics  
18 of the operation have been the fault of someone's death.

19 MR. ESTEY: That raises a very interesting  
20 problem. I take it what you are saying there is that the  
21 bridge collapsing was not by faulty design --

22 MR. WARD: Excuse me, I don't know all the  
23 circumstances, so it is a certain amount of conjecture on  
24 my part here.

25 THE COMMISSIONER: Let's get back to what  
26 Mr. Estey started on. When you go onto a job where they  
27 are excavating a sewer, or something of that kind, and you  
28 issue a stop-work order, do you issue the stop-work order  
29 because they violated some requirement that they are re-  
30 quired to make because of some regulations, or do you issue





1 a stop-work order because it is unsafe?

2 MR. WARD: I think it should be because it  
3 is unsafe. The Construction Safety Act says that you should  
4 use a 2 x 4 as a top guardrail. Well, there are other beams  
5 you can use than that for a guardrail, but the Construction  
6 Safety Act says you should use a 2 x 4.

7 THE COMMISSIONER: When you issue a stop-  
8 work order, I take it it is because some regulation has been  
9 violated.

10 MR. WARD: Yes.

11 THE COMMISSIONER: That is your only  
12 authority?

13 MR. WARD: Yes.

14 MR. ESTEY: Who makes the rules that the  
15 contractor should abide by?

16 MR. WARD: I presume the Department of  
17 Labour engineers recommend that this legislation be enacted.

18 MR. ESTEY: Your brief doesn't say that,  
19 and I take it it is inherent that the Workmen's Compensation  
20 Board would have to adopt the code.

21 MR. KOSKIE: Yes. I take it it wouldn't  
22 be for the inspector to say that, but as far as enactment  
23 of the regulations is concerned, we submit that<sup>be</sup> that/dealt with  
24 with the assistance of the centralized agency.

25 MR. ESTEY: I take it there would be a  
26 construction code for the province and that the code would  
27 be enacted by the legislation or by the Board or by the sub-  
28 board set up for that purpose.

29 MR. GALLAGHER: As far as we are concerned,  
30 we are not taking too much issue with the present legislation





1 at all, because it hasn't been indicated in the brief, but  
2 what we are indicating is the enforcement of the system,  
3 not the legislation, which was re-written two or three years  
4 ago, and we were grateful to have that. The legislation  
5 is adequate and it is as good as anywhere in the world.  
6 We are not saying we should make the legislation, or are  
7 we critical of the government on that point.

8 MR. ESTEY: Let's assume we have the code  
9 in existence now and then you set up this wing of the  
10 Workmen's Compensation Board, which will be responsible  
11 for the enforcement of this code, but you don't want the  
12 Board empowered to change the code; the legislature would  
13 change it, or orders-in-council, which are passed under  
14 this statute, would change it.

15 MR. WARD: Actually, I think one has to be  
16 guided by experience again, in legislation enactment.  
17 Unfortunately, a lot of legislation is not geared, for  
18 instance, as to a comprehensive investigation into a  
19 fatality or injury, so I think the legislation has to be  
20 geared to a large extent, according to the occurrences of  
21 its necessity, that is the occurrences of the accidents.  
22 So I think it is vital that there is some research there  
23 to look into such things and to recommend such items that  
24 come up for legislative action from time to time, to cover  
25 what has been found from investigation to be desirable.

26 MR. KOSKIE: If I may comment on that  
27 myself, I don't believe we are terribly concerned about  
28 who enacts the section of the Act. The Board is not  
29 responsible for enacting legislation. On the other hand,  
30 it is not a question of the government not consulting the







1 Labour Relations Board; as a matter of fact, they are  
2 consulted and management is consulted before they put in  
3 amendments to the Act. Therefore, we feel if the Workmen's  
4 Compensation Board had the power, we are not concerned  
5 about being left out in the event that any amendments should  
6 be made to any of the Acts, because if the Workmen's Com-  
7 pensation Board or the central committee we propose does  
8 have recommendations to make with respect to the Construc-  
9 tion Safety Act, then they should have the right to do so,  
10 and these are usually entertained by the government. So  
11 we are not terribly concerned about that aspect of it.

12 MR. ESTEY: You may not be, but the Royal  
13 Commission may be concerned about it. You know that the  
14 regulations are enforced by the executive branch of the  
15 Minister of Labour, who has power to revise the Act and  
16 the regulations required. Under your system, do you en-  
17 visage the exercise of the power to enforce, or do you wish  
18 that separated?

19 MR. KOSKIE: We haven't made any represen-  
20 tations on that particular point and there have been no  
21 discussions on that point with my client.

22 MR. ESTEY: In some of the provinces, some  
23 of the regulatory power has been shifted over to the Board.

24 MR. KOSKIE: We feel that the Board, with  
25 the set-up here, should be given the power to enact its  
26 own regulations.

27 MR. ESTEY: Part of Mr. Justice Roach's  
28 report adopted that suggestion, and you are adopting that  
29 as part of your submission.

30 MR. KOSKIE: Yes.





1 MR. ESTEY: Then you get this board, which  
2 is going to employ and send out into the fields these  
3 inspectors to enforce its own regulations, and one of the  
4 inspectors puts a stop-work order on a contractor's project.  
5 That is a very serious thing because a contractor may have  
6 a penalty clause in his contract, and you put something  
7 in there which says he can appeal it to the Board.

8 MR. KOSKIE: Yes.

9 MR. ESTEY: Of course, if the contractor  
10 appeals to the Board, the project closes down. Where does  
11 the onus lie in your suggestion? Is it on the contractor  
12 to show that the design is proper, or on the inspector?

13 MR. KOSKIE: In our submission, the onus  
14 is really on the contractor to show that the stop-work  
15 order should not be maintained.

16 MR. ESTEY: And if he proves the building  
17 is in order, the Board says, "All right, you have lost four  
18 days"?

19 MR. KOSKIE: We should keep in mind that  
20 we are dealing here with what the inspector believes to be  
21 an infraction of an existing regulation, and the regulations  
22 must be obeyed, and the inspector has issued the stop-work  
23 order because they haven't been obeyed.

24 MR. ESTEY: What happens if the engineer in  
25 charge of the project uses scaffolding which is permitted  
26 under the Act, he uses a cantilever type, and the inspector  
27 says, "Stop work. It is dangerous" and the engineer says,  
28 "I have worked it out. It is safe". The work is stopped  
29 and the contractor goes to the Board and then the work com-  
30 mences. Who pays the contractor then?





1 MR. KOSKIE: I don't know who pays the  
2 contractor. Nobody can, obviously. But we submit that  
3 the inspector employed be a person with proper qualifica-  
4 tions in this field.

5 MR. ESTEY: That is my next question, that  
6 may be the answer.

7 MR. KOSKIE: And we would hope that this  
8 person would have a sufficient amount of knowledge to  
9 perhaps exercise this discretion in a situation where it  
10 demands it to be done and if we keep the types of inspec-  
11 tors who we feel are being employed today, persons who  
12 really are not familiar with the construction problems,  
13 then this person could not, obviously, be given the re-  
14 sponsibility of issuing stop-work orders in the manner in  
15 which we have suggested.

16 MR. ESTEY: I was looking, in that connec-  
17 tion, at this Exhibit 34, the memorandum from the Canadian  
18 Association of Professional Safety Engineers. Is that a chartered  
19 association? It is a voluntary association?

20 MR. WARD: Yes.

21 MR. ESTEY: I see that the membership is  
22 in three categories and I take it that some of them have  
23 professional engineering degrees and some do not have.

24 MR. WARD: No, we have not got any profes-  
25 sional engineers.

26 MR. ESTEY: But you have people with  
27 experience in lieu of that in your group?

28 MR. WARD: Yes.

29 MR. ESTEY: Then, I don't suppose it is  
30 important to your case but just to round this out, what is







1 the purpose of the monthly publication coming out of this  
2 Workmen's Compensation Board special sub-board or wing or  
3 panel that you describe on page 27, paragraph (f) "a  
4 monthly publication or bulletin"? What is the purpose of  
5 that?

6 MR. WARD: If, for instance, there were a  
7 centralized agency who were basically responsible for, say,  
8 for instance, accident prevention, this would be a very  
9 useful medium because, in one sense of the word it would  
10 show where, during the last period of time, circumstances  
11 had contributed to accidents. For instance, once upon a  
12 time I made such a survey and it was indicated that some-  
13 where around 29 per cent of all the accidents that had  
14 occurred came from one source and that was falling off  
15 ladders. This is very important and very useful informa-  
16 tion to a person in accident prevention, not entirely, but  
17 he certainly can look out for those major contributing  
18 circumstances.

19 MR. ESTEY: This is another method of  
20 publicizing the causes of accidents.

21 MR. WARD: That is right, and control  
22 measures and the application of control measures.

23 MR. KOSKIE: I think, Mr. Estey, that  
24 really the effect of such an implication would have a  
25 deterrent factor. In other words, people become aware of  
26 how the majority of accidents are caused and perhaps if  
27 it is brought to their attention more, they will concentrate  
28 on those accidents.

29 MR. ESTEY: I suppose that proposal is  
30 subject to the same fatal defect that you allege in the





1 case of television, that that presumes an audience.

2 MR. KOSKIE: An audience, yes.

3 MR. ESTEY: Now, let us move on to some-  
4 thing else.

5 MR. KOSKIE: Of course in television, I  
6 should point out that with respect to the bulletins, the  
7 bulletins are always there. If they are distributed they  
8 are always on the desk of the employer, for example, and  
9 he can read them when he wishes; the bulletins that are on  
10 television are only there at a certain set time and may or  
11 may not be seen.

12 THE COMMISSIONER: Mr. Estey, if you are  
13 going to go into anything further, I think we can adjourn.  
14 But if it is just a question or two that you want to ask -

15 MR. ESTEY: I think we can adjourn, Mr.  
16 Commissioner. Mr. Koskie can answer the rest tomorrow if  
17 he wants.

18 THE COMMISSIONER: Adjourn until 10:00  
19 o'clock tomorrow morning.

20 --- (At 4:35 p.m. the Hearing adjourned until 10:00  
21 a.m., on Wednesday, the 26th of October, 1966.)

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Nethercut & Young

Toronto, Ontario

IN THE MATTER OF The Public Inquiries  
Act, R.S.O. 1960, Ch. 323

- and -

IN THE MATTER OF an Inquiry Into and  
Report Upon The Workmen's Compensation  
Act.

=====

BEFORE: The Honourable Mr. Justice G.A.  
McGillivray, Commissioner, at  
Room 200, 67 Richmond Street  
West, Toronto, Ontario, on  
Wednesday 26 October, 1966

=====

APPEARANCES:

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and )	Counsel to the Commission
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W.H. Oliver )	
W.E. Russell )	Canadian Manufacturers' Assoc.
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R. Koskie )	
R. Atkey )	Labourers' International
G. Gallagher )	Union of North America
M. Lynch )	
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	Prevention Association
Dr. K. Kavanaugh)	
W.R. Kerr )	
J.W.E. Draper )	Workmen's Compensation Board
A.G. MacDonald)	
J. Greaves )	
Dr. A. Fee )	Canadian Hearing Society
Mr. L.H. Parker )	

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Toronto, Ontario

INDEX

Page No.

1	Labourers' International Union of North America (cont'd)	2394
2		
3	Canadian Manufacturers' Association	2415
4	Industrial Accidents Prevention Association	2433
5	Workmen's Compensation Board	2469, 2488
6	The Canadian Hearing Society	2482

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EXHIBITS

37	Survey by Opinion Research Incorporated	2447
40	Changes in the Act	2551

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1       --- On commencing at 10:00 a.m.

2                   MR. ESTEY:    Mr. Koskie, when we left off  
3 yesterday, we were dealing with the procedure for estab-  
4 lishing regulations for safety and for inspection en-  
5 forcement, if you remember, and I want to move along now  
6 and ask you about three other subjects, one of which is  
7 related to that, and that is this Construction Safety  
8 Act. There is one thing I want to ask you about. Your  
9 proposal is a procedure which, I presume, you think is  
10 analogous to the Labour Relations Act where you file an  
11 order with the Supreme Court of Ontario and it becomes  
12 an order of this Court.

13                   MR. KOSKIE:    Yes.

14                   MR. ESTEY:    Section 17 (a) of the Con-  
15 struction Safety Act has a similar procedure which seems  
16 expeditious except it says you must charge the person,  
17 and section 17 (a) (1), where a person is charged with  
18 failure to comply with an order of the inspector and the  
19 Judge may issue a restraining order. Do you see that?

20                   MR. KOSKIE:    Yes, I do.

21                   MR. ESTEY:    Do you have any comments  
22 about the adequacy of this provision or whether this can  
23 be used as a basis for your submission, perhaps by  
24 eliminating the prerequisite of 17 before you get to 17  
25 (a)?

26                   MR. KOSKIE:    Yes. We feel that once the  
27 order is issued by the inspector, that he should be  
28 entitled to file it forthwith in Supreme Court. In  
29 other words, not to have to wait two days, or have to  
30 give notice to the other side that he is going to apply







1 to a Judge of the Supreme Court. In other words, under  
2 the provisions of section 66 of the Labour Relations Act,  
3 dealing with jurisdictional disputes, the Labour Relations  
4 Board issues an order and the Registrar of the Board can  
5 issue an order forthwith and it immediately becomes an  
6 order of the Supreme Court.

7 MR. ESTEY: It cannot be done there  
8 without a hearing, but what you are proposing is without  
9 a hearing.

10 MR. KOSKIE: Under section 66 of the Act,  
11 before it was recently amended, the Jurisdictional  
12 Disputes Commission, as it was then constituted, could  
13 issue an interim order. Now, the interim order could  
14 be filed without a hearing.

15 MR. ESTEY: In fact, that never was done.

16 MR. KOSKIE: Oh, yes, it has been.

17 MR. ESTEY: I think Mr. Justice McRuer's  
18 judgement was that the Supreme Court wouldn't do it that  
19 way.

20 MR. KOSKIE: I don't think His Lordship  
21 indicated that. I don't think he was saying that, in  
22 fact, no one would issue an order.

23 MR. ESTEY: Without a hearing? The  
24 Chief Justice said, as I remember his judgement, that  
25 this procedure should not be invoked unless both sides  
26 were given an opportunity to present their case. Under  
27 your proposal, in your brief, I took it that it would be  
28 done without a hearing.

29 MR. KOSKIE: May I say this, that under  
30 section 66, before the Commission would issue an interim





1 order, they would not necessarily hold a formal hearing,  
2 but they would hear representations from the parties on  
3 an informal basis. In other words, it would not be set  
4 down for a hearing.

5 MR. ESTEY: Of course, the Commission is  
6 not a judge and jury that the inspector is.

7 MR. KOSKIE: There would be an opportunity  
8 of speaking to the employer, just the same as the Juris-  
9 dictional Disputes Commission would before issuing its  
10 order.

11 MR. ESTEY: Except that in the Jurisdic-  
12 tional Disputes Commission you have two parties, in  
13 addition to the Commission.

14 MR. KOSKIE: That is right.

15 MR. ESTEY: Whereas here you have the  
16 inspector on the one side and the contractor on the other,  
17 and the inspector says, "Do it my way, or else," and the  
18 contractor has nowhere to go. That is the difficulty,  
19 isn't it?

20 MR. KOSKIE: There are also the employees.

21 MR. ESTEY: There is the landowner; there  
22 is no end to it.

23 MR. KOSKIE: The employees are closer to  
24 the issue; they are involved. We have the safety pro-  
25 visions to protect them.

26 MR. ESTEY: It indicates that you must  
27 feel strongly about this matter to lay a charge.

28 MR. KOSKIE: That is correct.

29 MR. ESTEY: It is a little unclear to me  
30 to find what the theme of that section is, and I wonder--





1 what you are really proposing to expedite these things  
2 is to re-write it, but leave the notice in.

3 MR. KOSKIE: Our feeling is that the  
4 inspector should not be obligated to charge an employer  
5 because this would result in a further delay, and the  
6 intent of our submissions is to bring an unsafe job to  
7 an immediate halt, rather than encounter these delays.  
8 If there is a charge, then, of course, it would involve  
9 delay. There is two days clear notice which must be  
10 given to the accused before an inspector applies to a  
11 Judge for a restraining order. That, of course, involves  
12 another delay.

13 MR. ESTEY: I think we understand your  
14 submission on that point. I wonder if I could move  
15 along to something else and deal with section 86 (6a)  
16 and 86 (6) under our Act and the comparable Alberta  
17 legislation to which you and Mr. Atkey made reference.  
18 I take it your submission is that while both statutes,  
19 if not identical, are substantially on the same terms,  
20 what you are really asking is that the Commissioner should  
21 find both would be better under that section?

22 MR. KOSKIE: Yes. Our main concern is  
23 that under the present 86(6) there is a lack of a com-  
24 pulsory incentive plan there.

25 MR. ESTEY: It is not compulsory in  
26 Alberta either, is it?

27 MR. KOSKIE: It is more compulsory than  
28 ours at the moment.

29 MR. ESTEY: But, Mr. Koskie, we are deal-  
30 ing with the statute. That is where we start with this







1 Royal Commission. The Alberta statute doesn't make it  
2 compulsory; is that right?

3 MR. KOSKIE: That is true.

4 MR. ESTEY: Here it doesn't make it com-  
5 pulsory, but you are saying it should either be set out  
6 in the Act as a mandatory procedure or the Board should  
7 institute such a plan.

8 MR. KOSKIE: Yes.

9 MR. ESTEY: The discussion has been  
10 raised the main problem, and that is whenever you intro-  
11 duced a two-way automatic escalator for that, you then get  
12 away from the principle of insurance and you, in fact,  
13 make the employer his own insurer. So I take it what you  
14 are proposing is, instead of having a full range of escal-  
15 ation, you have sufficient range to make it an incentive,  
16 but also retain the insurance principle?

17 MR. KOSKIE: That is correct.

18 MR. ESTEY: Because if you allowed the  
19 escalator to go the full way, it would simply widen the  
20 gap in the premium between the good and bad employer,  
21 that you would have to raise the good man, anyway.

22 MR. KOSKIE: Yes. The main point here is  
23 to have some incentive.

24 MR. ESTEY: The B.C. statute is also  
25 silent, but they have a series of three plans: a plan A  
26 for some industries, a plan B, and a plan C for construc-  
27 tion. You are primarily interested in construction, and  
28 I take it you make your proposal recognizing that con-  
29 struction is seasonal and it involves a multiplicity of  
30 employers rather than a few large ones where some are here





1 today and gone the next day.

2 MR. KOSKIE: That is right.

3 MR. ESTEY: I notice the B.C. plan for  
4 construction is very complicated. How do you calculate  
5 a man's experience rating when he had no contracts in the  
6 last period?

7 MR. KOSKIE: If I may once again refer  
8 to the Labour Relations Act, we now have what appears to  
9 be the beginnings of a separate secti  
10 ing with the construction industry only and this resulted  
11 from the Goldenberg/report issued,  
12 we now have many more provisions coming under that sec-  
13 tion of the Act dealing with the construction industry  
14 because of its peculiarities as opposed to other types  
15 of industry.

16 MR. ESTEY: Also, I take it, because of  
17 that special problem which the construction industry has  
18 in our climate and with the seasonal fluctuations, you  
19 propose a merit rating and you do so on the basis that  
20 the Board should be prepared to invoke this. Are you  
21 suggesting that we harden it into a statutory amendment?

22 MR. KOSKIE: I don't think we care how  
23 it is done, whether or not the Board adopts its own  
24 regulations or whether it is put in the Act itself. We  
25 don't think a statutory amendment is exactly necessary,  
26 if the Board would invoke its own plan, such as in  
27 Alberta.

28 MR. ESTEY: My understanding of the  
29 Alberta plan is that it is not automatic.

30 MR. KOSKIE: Mr. Atkey may help us on





1 that. He has done research on this.

2 MR. ATKEY: If I may interject here, Mr.  
3 Estey.

4 MR. ESTEY: Yes, sir.

5 MR. ATKEY: You are quite right that  
6 neither system is compulsory in the true sense of the  
7 word, but the Alberta plan does set out specific amounts,  
8 specific percentages and guarantees and then leaving it  
9 to the discretion of the Board in extreme cases and takes,  
10 in our opinion, a different approach to the Ontario system  
11 where everything is in the discretion of the Board. In  
12 other words, you set out your absolute and then you make  
13 room for exceptions.

14 THE COMMISSIONER: Does your knowledge  
15 extend to whether or not it has been applied, the Board  
16 having this discretion, whether they apply it or not,  
17 notwithstanding the norms which are stated there?

18 MR. ATKEY: Outside of this letter, Mr.  
19 Commissioner, I must say no. We have written to the  
20 Alberta Board asking them this particular question and  
21 we expect a reply to that letter sometime this week, and  
22 we will, certainly, make it available to you when it  
23 arrives.

24 MR. KOSKIE: We have asked for full stat-  
25 istics with respect to the operation of these plans.

26 THE COMMISSIONER: How long has that been  
27 in their regulations?

28 MR. KOSKIE: I don't believe we are aware  
29 of that, Mr. Commissioner. We will try and find that out.

30 MR. ESTEY: The essence of your submission







1 is that the Act would be better administered if there was  
2 an incentive offered to the employers to follow good  
3 safety procedures and have a good safety record, whereas  
4 you say the present plan does not have any incentive  
5 except to avoid an extra assessment, that once you get  
6 down below, you don't save any money.

7 MR. KOSKIE: It could, but there is no  
8 provision to show that they could save money. If I may  
9 comment, we would be glad to consider this point ourselves;  
10 and as Mr. Atkey said, when we get this letter from the  
11 Board, we will, perhaps, give our further thoughts to it  
12 and submit it in writing to the Commissioner and yourself

13 THE COMMISSIONER: If it comes in subse-  
14 quent to these Hearings terminating. I question how long  
15 it will take to get a report out on this, and I understand  
16 there isn't any real ~~time~~ ~~pressure~~ ~~to~~ ~~make~~ ~~it~~ ~~up~~ ~~now~~  
17 you care to make in writing after the Hearings are closed,  
18 we would be glad to receive.

19 MR. KOSKIE: We should be pleased to do  
20 so.

21 MR. ESTEY: There is one correction I  
22 should like to put on the record dealing with the Con-  
23 struction Safety Association budget for 1966. The Board  
24 has amended figures slightly that I read into the record  
25 yesterday: TV advertising \$408,256, radio \$21,841, press  
26 \$44,019. I think those last two were increased somewhat,  
27 so the percentage devoted to television is somewhat lower  
28 but not very much.

29 The total budget for 1965 was \$1,160,000.  
30 I assume that figure is up for 1966.





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2402

1 MR. KERR: Yes.

2 MR. ESTEY: Now, your Association's view  
3 of those expenditures, I take it Mr. Koskie, is that they  
4 are not, speaking relatively, worthwhile.

5 MR. KOSKIE: Mainly with respect to the  
6 television and the radio, this is correct.

7 MR. ESTEY: The radio figure is rather  
8 small.

9 MR. KOSKIE: Yes, it is

10 MR. ESTEY: Do you have any comments on  
11 the use of radio?

12 MR. KOSKIE: What was the figure on that  
13 again, Mr. Estey?

14 MR. ESTEY: Yes, sir.

15 MR. KOSKIE: The same comments would  
16 apply as we have indicated with respect to television,  
17 although obviously a lesser amount is being paid, but  
18 we feel, as indicated before, that the money could be  
19 better used by employing teams of experienced safety  
20 personnel to educate these persons right on the job  
21 while they are, in fact, working. Mr. Gallagher has  
22 a comment on that, Mr. Estey.

23 MR. GALLAGHER: Mr. Commissioner, as far  
24 as the radio is concerned, from our point of view  
25 Labourers' organization, it is totally lost, as far as  
26 we are concerned, the expenditure on radio, because of  
27 the fact that 75 per cent or 80 per cent of our members  
28 are non-English speaking.

29 MR. ESTEY: This may come out in the data  
30 in Italian.





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2403

1 MR. GALLAGHER: Yes. We have had a  
2 research on it and we find the best time is about 8:30  
3 or 8:45 and we have this program every night of the week.

4 MR. ESTEY: In Toronto.

5 MR. GALLAGHER: They just arrive home  
6 from work, right here in Toronto, CKFH. This is called  
7 The Voice of Labour, grandly, but we do get them and we  
8 have been doing a little research by asking every member  
9 at every meeting and asking every member when we write  
10 to them, "Have you listened to this?" and gradually it  
11 has increased. I believe that kind of thing would be  
12 of some value to our organization but I realize the  
13 difficulties of trying to look after everybody in  
14 Ontario and all industries but, from our point of view,  
15 which we are trying to present to you, we feel that as  
16 far as we are concerned it is totally lost, the money  
17 spent on radio.

18 MR. ESTEY: The reason I raised that  
19 subject is that I noticed the American Federation of  
20 Labour with which you are affiliated, spends a consider-  
21 able amount of money on radio for this kind of thing  
22 and I wonder why the countries are different.

23 MR. GALLAGHER: Well, as far as we are  
24 concerned, as I said, from our limited point of view,  
25 the Labourers' organization - and of course we are  
26 trying to present that point of view here - it is  
27 totally lost. Now, if a proper time slot was picked  
28 out like we have tried to do on the little research we  
29 have had and if it was broadcast in Portuguese and  
30 Italian and so on, we feel it would be very beneficial







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2704

1 to our organization. I realize again, Mr. Commissioner,  
2 this is a rather limited point of view.

3 MR. ESTEY: Your recommendation is not  
4 that the money should not be so spent but should be spent  
5 in a different way?

6 MR. GALLAGHER: I think that some of the  
7 money should be spent on a proper time slot but I feel  
8 on-the-job education is by far the best.

9 MR. ESTEY: While you are on your feet,  
10 Mr. Gallagher, let us turn to television. What are these  
11 expenditures directed to - one minute blurbs on the dif-  
12 ferent stations in southern Ontario or do you know?

13 MR. GALLAGHER: Well, I have watched them  
14 sometimes with amusement, Mr. Estey. It simply does not  
15 get to our people at all. What I am saying is, I have  
16 asked on many occasions, I don't just make a rash state-  
17 ment that I know all about this, I talk to our members  
18 and find out, "Have you seen these blurbs?" as you call  
19 them, and they just simply haven't. Again, from our limit-  
20 ed point of view, we feel that they are pretty useless to  
21 us. We have men on shifts 24 hours a day and so on.

22 MR. ESTEY: Did you hear the evidence  
23 yesterday of the Forestry Safety Association or the Mines  
24 people?

25 MR. GALLAGHER: Yes, I heard some of it.

26 MR. ESTEY: I take it that you would  
27 strongly urge that the Board direct the safety expenditures  
28 in construction through the same kind of channel as in  
29 the forestry industry, consisting of teams of instructors  
30 and people in the field educating the men and educating





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2405

1 the foremen and the supervisors and the company management  
2 on safety rather than spending it in such a large way,  
3 through the medium of television.

4 MR. GALLAGHER: Absolutely. I think it  
5 is our experience that this, in reality, is the only way  
6 to have the job done effectively, on the job inspectors  
7 and people continuously trying to educate the people on  
8 the job. You can print all the pamphlets that you want  
9 but if you don't put them up in the shacks and if you  
10 don't try to get them across to the men, you are wasting  
11 money again. I was not critical so much of the pamphlets'  
12 contents as I was of the fact that we don't see them at  
13 all anyway, either in Italian or Irish or any other lan-  
14 guage. They are locked up someplace.

15 MR. ESTEY: That is what I wanted to get  
16 at. The next subject was posters. In fact, are they  
17 posted on construction shacks on the projects, on the  
18 avenues to the projects and so on?

19 MR. GALLAGHER: They may be posted, I can't  
20 say here that they were not posted, but we don't see them.  
21 So if they are posted, somebody takes them down awfully  
22 quick, that is all I know. We could take the Commission  
23 out right now and go across to the subway, which is one  
24 of the major construction projects in Toronto and if you  
25 can find any, unless somebody dashes out before we get  
26 out there and sticks them up, I can't find them.

27 MR. ESTEY: Well, I can save you the  
28 trouble. I looked last night at three of the stations  
29 and there weren't any, so I assume you are correct. What  
30 is the solution? The posters obviously are successful





1 because they are used in other associations where their  
2 record is going down. What is the solution?

3 MR. GALLAGHER: The solution is simple  
4 again. On the job training with inspectors with lectures  
5 and pamphlets and explain these things to the people in  
6 the language of the people you are talking to. You have  
7 got a captive audience. We have our safety meetings in  
8 our Union, we have 10 per cent, perhaps. On a job you  
9 get 100 per cent, they are there and whether they are  
10 interested in safety or not, they have got to listen.

11 MR. KOSKIE: I should point out, Mr.  
12 Estey, that the Workmen's Compensation Board, as you are  
13 probably aware now, has put out a pamphlet involving  
14 caisson disease, which was first brought to our attention  
15 last week. As you probably know by now, the Labourers'  
16 Union are, of course, involved mainly in tunnel work and  
17 this particular pamphlet has never come to their atten-  
18 tion or to the attention of any of their members, so far  
19 as they know.

20 MR. ESTEY: This caisson business, you  
21 say Labourers' International are involved. By that you  
22 mean that of all the people working in caissons, they are  
23 the most concerned?

24 MR. KOSKIE: Yes, they are the Union that  
25 has jurisdiction.

26 MR. ESTEY: The proportion of your member-  
27 ship engaged in caisson work must be very tiny - working  
28 under pressure?

29 MR. GALLAGHER: Well, that fluctuates  
30 from time to time, from job to job. Sometimes they don't







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2407

1 need air pressure at all but I would not describe it as  
2 tiny because the men who work under this kind of condition  
3 is quite a large proportion of our particular local.

4 MR. ESTEY: What is your membership, Mr.  
5 Gallagher?

6 MR. GALLAGHER: Approximately 3,000.

7 MR. ESTEY: Of the 3,000, how many are now  
8 working under pressure?

9 MR. GALLAGHER: Now, at this moment, a  
10 very tiny number.

11 MR. PIKE: If I may comment on this, right  
12 now we have, I would say, about 50 approximately.

13 MR. ESTEY: And that goes, of course, up  
14 and down, sometimes it goes higher?

15 MR. PIKE: Yes, in 1960 - 61 we had up to  
16 500 members working in compressed air.

17 MR. ESTEY: That is in your one local?

18 MR. PIKE: That is in our one local.

19 MR. ESTEY: But in the Labourers' Union  
20 throughout Ontario - and we see these tremendous pay-outs  
21 by the Compensation Board with respect to construction  
22 accidents - caisson disease, while very important to the  
23 man who contracts it, must be a very tiny percentage of  
24 the pay-outs under the construction classifications.

25 MR. GALLAGHER: Mr. Estey, according to  
26 the statistics that I mentioned yesterday, it all looks  
27 very fine, but what I am trying to tell you is that the  
28 statistics do not give a true picture of the actual facts.

29 MR. ESTEY: I am going to come to that,  
30 but I just want to get this in perspective because if we





1 are going to get anywhere at all, we have to take the  
2 important matters and recognize them as important and  
3 then scale down from that. What I want to get out of you  
4 is, in the range of accident prevention that we must talk  
5 about and must think about, there must be a great number  
6 of classifications which attract larger compensation pay-  
7 outs then caisson disease. I just want to get the rela-  
8 tive figures in a rough kind of way.

9 MR. KOSKIE: Mr. Estey, if I may comment  
10 on that, the facts that you have before you may indicate  
11 a low pay-out with respect to caisson disease and this  
12 is one of the reasons why the research of Dr. Gemarra  
13 will be of some importance, because if I understand --

14 MR. ESTEY: Let me save everybody a lot  
15 of time. I am not trying to get everybody up and walking  
16 around that now has caisson disease. I am trying to  
17 find out what are the major sources of claims in the  
18 construction area? If caisson disease is the major claim,  
19 compensable claim, then I would like to hear that. I  
20 don't think it is, from what I have read.

21 MR. GALLAGHER: No, it is not the main  
22 one.

23 MR. ESTEY: It may be away down the  
24 ladder, in fact?

25 MR. GALLAGHER: It is, but we think it  
26 ought not to be. If the thing was examined properly,  
27 these men are walking the streets who should have been  
28 looked after.

29 MR. ESTEY: Mr. Gallagher, if every man  
30 who was working under pressure today were given 100 per





1 cent disability, I suggest to you that still would not  
2 make caisson your major pay-out.

3 MR. GALLAGHER: I get your point, Mr.  
4 Estey, that is true.

5 MR. ESTEY: I want to know if it is true  
6 and, more important, the commissioner would like to, too,  
7 from the construction industry viewpoint, what is it we  
8 are really talking about when we talk about compensation  
9 claims - what are the hazards and where is the area of  
10 accident most frequent?

11 MR. GALLAGHER: Well, I would suggest that  
12 caisson disease is certainly down the list in that regard.

13 MR. ESTEY: I am not trying to degrade it  
14 as a source of a claim, it is certainly vital to the man  
15 who has got it, but what should the television ads and  
16 what should the training be aimed at in the construction  
17 industry, from the viewpoint of your trade union which is  
18 an important one on construction?

19 MR. GALLAGHER: As far as the whole con-  
20 struction is concerned?

21 MR. ESTEY: Yes.

22 MR. GALLAGHER: We will have to repeat  
23 what we said before.

24 MR. KOSKIE: As we said yesterday, Mr.  
25 Estey, we feel that a poster more of an instructional  
26 nature similar to those we filed yesterday, for instance  
27 there was one poster there which instructed a person how  
28 to properly construct a ladder, to do it the safe way,  
29 and there was another poster filed as well, which gave  
30 similar instructions, and this particular poster had







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2410

1 instructions in English and Italian. Now these are the  
2 kind of posters which we feel would reduce claims because,  
3 for example, people are quite often falling off ladders  
4 or falling off scaffolds. We always read about this in  
5 the paper and the main reason is that the persons who  
6 build these scaffolds do not usually do so properly, don't  
7 use the proper size wood or the proper reinforcing measures.  
8 These are the things we want to educate the workman about  
9 so that it will prevent these accidents from occurring if  
10 these scaffolds are built much more sturdy and the lad-  
11 ders are built properly.

12 MR. ESTEY: Do the members of your trade  
13 union use, under your collective agreements, saws, auto-  
14 matic saws?

15 MR. KOSKIE: Oh, yes, the Agreement is on  
16 file. The Heavy Construction Agreement is on file with  
17 the Commissioner now and I think it is indicated there  
18 the type of tool that they will use. They use a very  
19 wide range of tools

20 MR. ESTEY: So I take it the kind of  
21 safety education that is administered to a number of other  
22 trades is applicable also to the labouring trade, for  
23 example, the handling of automatic saws, the handling of  
24 electrical equipment of all kinds - this is the kind of  
25 thing you think should be passed out in the way of demon-  
26 strations and lectures, to the people who are actually  
27 doing the work?

28 MR. GALLAGHER: That is right.

29 MR. ESTEY: I see by the 1965 report that  
30 the Board paid out under construction generally almost





1 \$19 million. So to put the thing in perspective, what  
2 you are saying is really, let us not overlook caisson  
3 disease, let us prevent that, but we have about another  
4 \$18½ million pay-cut here, some of which could be saved  
5 by a proper safety and accident program?

6 MR. GALLAGHER: Yes. From our point of  
7 view and from a percentage basis, it is a fact that more  
8 people in my organization were killed and maimed than  
9 any other organization so, naturally, we feel a little  
10 more intense about it.

11 MR. ESTEY: In the construction end of it

12 MR. GALLAGHER: Yes

13 MR. KOSKIE: Mr. Este , I would like to  
14 this, that from the figures that you have given us  
15 as to provide us with today, it would appear that of the  
16 total budget of the construction, approximately one-half  
17 of it is devoted to off the-job training.

18 MR. ESTEY: Yes, I would like to

19 MR. KOSKIE: I think that is alarming

20 MR. ESTEY: Sub-contracted instruction.

21 MR. KOSKIE: That is right.

22 MR. ESTEY: You might have another comment  
23 that the amount of money spent by the Association is less  
24 in ratio to assessments than in some of the other associa-  
25 tions we have seen. You might have a second string to  
26 your bow, that having in mind the payroll of the construc-  
27 tion industry, perhaps the safety measures aren't adequate.

28 MR. KOSKIE: That has been the basis of  
29 our submission, that is correct. We would feel - I don't  
30 know from the figures you have given us, how much of the





1 Association's budget would be for on-the-job training.

2 I don't know if you have those figures before you.

3 MR. ESTEY: We will get them, I can  
4 assure you, but all we can do is compare the budgets for  
5 the 1965 and 66 operation. But in 1965 the total actual  
6 cash handled on this kind of thing, was \$1,100,000. and  
7 of that, if that were still true in 1966, pretty close  
8 to half of it would be going out to this off-the-job  
9 training or propaganda, or whatever the word is.

10 Now, dealing again with the forestry,  
11 yesterday, Mr. Koskie, we heard a very clear explanation  
12 of how the forestry people conducted this same program  
13 both in the sawmill and in the woods and their experience,  
14 from the graph of claims, seemed rather dramatic. They  
15 spend a considerably less amount of money - I think their  
16 budget is \$161,000 as compared to \$1,100,000 and I wanted  
17 to get your view on their program because I don't think  
18 you were here, you were busy interviewing witnesses.

19 MR. KOSKIE: That is right.

20 MR. ESTEY: Their program consisted, all  
21 but \$2,000 on an expenditure in wages and travelling  
22 expenses, for two kinds of people - one, foremen instruc-  
23 tors and the other field representatives who saw that  
24 posters were put up, who arranged meetings on the job  
25 during working hours of people in these two groups of  
26 industry and I take it that that is practical to apply  
27 that to construction; is it that kind of thing?

28 MR. KOSKIE: That is right, yes.

29 MR. ESTEY: Construction, as I take it,  
30 is heavily centred in southern Ontario as contrasted to







1 the forest products being centred in Northern Ontario?

2 MR. KOSKIE: I think that would be true.

3 The proportion of construction is much greater in the  
4 southern part of the province.

5 MR. ESTEY: So your construction machinery  
6 and your instructional machinery would both be heavily  
7 centred in the big population centres of Toronto, Hamil-  
8 ton, Ottawa, Windsor, London et cetera.

9 MR. KOSKIE: Yes.

10 MR. ESTIE: The only one thing that  
11 bothers me - I am finished with that subject - but there  
12 is one thing which is not very large, but which I want  
13 to get cleared up: You are primarily interested in  
14 construction, although your men obviously work in other  
15 industries, to some extent. Therefore, you have been  
16 directing your mind to the safety regulations in construc-  
17 tion and the safety inspection machinery for construction  
18 and I take it you take no position, or no strong position  
19 at any rate, with regard to the present machinery for  
20 administering safety regulations in mining and forestry  
21 which are not under the Department of Labour as we have  
22 heard?

23 MR. KOSKIE: I have not discussed that  
24 aspect of it with my clients, Mr. Estey, and we have no  
25 real submissions to make in that regard.

26 MR. ESTEY: They seem to be working  
27 rather smoothly now, and I take it you don't want to  
28 disrupt one of those organizations.

29 MR. KOSKIE: I don't think we do.

30 MR. ESTEY: Thank you very much, gentlemen.





1 you have been very helpful.

2 MR. KOSKIE: I think Mr. Gallagher has  
3 one more point to make, if he may, Mr. Commissioner.

4 MR. GALLAGHER: Mr. Commissioner, in my  
5 statement yesterday I mentioned the fact as an illustra-  
6 tion of the lack of safety inspection in Ontario, I quoted  
7 the City of Toronto and stated there were now ten vacan-  
8 cies for every relatively small area. There is a lot of  
9 construction going on. I would like to file, if not read  
10 it into the record, these letters, for your information,  
11 from which you can see that this is not a figment of our  
12 imagination, but an actual fact. This correspondence, I  
13 am sure, will help you to see that if there are ten in-  
14 spectors short in one area, a look should have been taken  
15 at the whole province to see if the inspection is adequate

16 THE COMMISSIONER: Well, as I explained  
17 to you yesterday, Mr. Gallagher, this is one thing that  
18 I can't concern myself with and that is what the City of  
19 Toronto does about securing the employees necessary to  
20 carry out the requirements of the Act, but I would be  
21 glad to look at those letters if you choose to file them,  
22 pursuant to what you said yesterday. I am afraid it is  
23 outside the scope of what I am able to deal with, other  
24 than just considering the situation of municipalities in  
25 general when it comes to enforcing the provisions of the  
26 Act.

27 MR. GALLAGHER: Mr. Commissioner, if we  
28 have finished, I want to express on behalf of our organ-  
29 ization, our gratitude to you and the unfailing courtesy  
30 and monumental courtesy of yourself and also to your





1 counsel, Mr. Estey and Mr. Guthrie. If we have been a bit  
2 long about it, it is because we do feel intense about it  
3 and we appreciate very much the opportunity that you have  
4 given us.

5 THE COMMISSIONER: Well, you have certainly  
6 done a good job for your organization, Mr. Gallagher and  
7 brought forward a lot of very important matters, elucidated  
8 them and been of substantial help.

9 MR. GALLAGHER: You are very kind, Mr.  
10 Commissioner.

11 MR. KOSKIE: Thank you, Mr. Commissioner.

12 MR. ESTEY: Mr. Commissioner, The Canadian  
13 Manufacturers' Association have filed with us a supple-  
14 mentary brief on accident prevention. They are here this  
15 morning to present this brief to us.

16 MR. OLIVER: Mr. Commissioner, the subject  
17 of the prevention of accidents is one on which The Cana-  
18 dian Manufacturers' Association desires to be heard.  
19 Firstly, it must be said that The Association is not com-  
20 mitted to any form or approach to accident prevention,  
21 whether it be by legislation with enforcement facilities;  
22 by organized labour in concert with management; by manage-  
23 ment alone; or by associations under the control of the  
24 Department of Labour, or the Workmen's Compensation Board.  
25 The important matter is that accidents be prevented and  
26 whatever approach can achieve this objective will be the  
27 one supported by this Association.

28 Definitely there is a need for legislation,  
29 inspection and enforcement of minimum safety standards  
30 for things of all kinds with which people live and work.







1 Legislation, however, can do little to create the environ-  
2 ment in which people will be motivated to work and live  
3 with these safe things without injury. The idea that  
4 rigid safety standards, with strict inspection and enforce-  
5 ment, will stop accidents is fallacious. Many Ontario  
6 manufacturers have safety standards far higher, more  
7 frequently inspected and more energetically enforced  
8 than any government bureau of the Workmen's Compensation  
9 Board could ever establish. Nevertheless, they still have  
10 accidents.

11 The idea that formal participation by  
12 organized labour in the field of accident prevention will  
13 solve the problem is equally fallacious. Many Ontario  
14 manufacturers have the full participation of their unions  
15 in accident prevention activities and they still have  
16 accidents.

17 The idea that placing all accident preven-  
18 tion work, including legislation and enforcement, under  
19 the direct supervision of the Workmen's Compensation Board  
20 will stop accidents, is just as fallacious. The reasons  
21 we feel this way will be developed as we proceed with our  
22 submission.

23 A good safety program which obtains results  
24 can only be achieved by people dedicated to the objective  
25 of no accidents, and who have the skills, know-how, money  
26 and opportunity, and who apply them on a continuous basis.  
27 In many, many manufacturing establishments the physical  
28 hazards are a very minor factor. The major problem to  
29 be solved is the psychological one of safe work attitudes  
30 and habits at a time when society in general seems to





1 admire the dare-devil and the risk-taker rather than the  
2 safety-minded individual.

3 Here, the psychological problem created  
4 by the 1963 change in the Workmen's Compensation Act,  
5 relative to the definition of an accident, and its inter-  
6 pretation, often jar to a halt those efforts towards the  
7 goal of no accidents which are created by a good accident  
8 prevention program. The measure of accident prevention  
9 is accident frequency. This is determined by the number  
10 of accidents recognized by the Workmen's Compensation  
11 Board per million man hours worked. The discouraging  
12 and deflating effect on management and employees who have  
13 embarked on a no-accident campaign when the Workmen's  
14 Compensation Board recognizes some disability with no  
15 related accident, must be experienced to be understood.  
16 The enthusiasm of the individual manager and his employees  
17 is dissipated and the momentum for the program is lost.  
18 Tremendous efforts are needed to get it rolling again.

19 In this respect may we comment for a  
20 moment on material provided by the Workmen's Compensation  
21 Board at the request of the Commission. The Board's  
22 officials estimated that the change in the definition of  
23 an accident increased the number of claims allowed by 1.1  
24 per cent and the reduction in the waiting period increased  
25 claims 7.4 per cent. In total this is an increase of  
26 8.5 per cent which is a significant increase in the number  
27 of claims recognized by the Board. We understand the  
28 cost of this 8.5 per cent increase has been quoted as a  
29 total of \$635,725 which is not a great deal in comparison  
30 with the total expenditure on Workmen's Compensation.





1                   It is a well known principle in the field  
2 of accident prevention that accident frequency is in the  
3 hands of man but severity is a matter of chance. For  
4 example, a wrench may be knocked from a factory catwalk,  
5 fall forty feet and strike someone a glancing blow on the  
6 shoulder, resulting in an accident of negligible severity.  
7 Ten inches to the left, the wrench would have hit the  
8 person on the head. Result: an accident; a cripple for  
9 life or even a fatality. The emphasis in accident pre-  
10 vention, therefore, is to prevent the wrench being  
11 knocked from the catwalk.

12                   However, despite the statistics presented  
13 by the Workmen's Compensation Board, records available  
14 from the Industrial Accident Prevention Associations show  
15 the following:

16                   THE COMMISSIONER: This is the Industrial  
17 Accident Prevention Association's figures where?

18                   MR. OLIVER: In Ontario.

19                   THE COMMISSIONER: You mean the seven  
20 which come under the supervision of the Board now?

21                   MR. OLIVER: It is the Industrial Accident  
22 Prevention Association which comes under the supervision  
23 of the Board, yes sir.

24                   THE COMMISSIONER: Very well.

25                   MR. OLIVER:

26                   ACCIDENT FREQUENCY SUMMARY

27 Year	Firms	No. of	Hours	Frequency
	Reporting	Employees	Worked	(Compensation
				cases per
				<u>million hours)</u>
30 1957	1,240	372,951	739,482,113	14.57 )







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Toronto, Ontario

2419

1	Year	Firms	No. of	Hours	Frequency	
2		Reporting	Employees	Worked	(Compensation	
3					cases per	
4					million hours)	
4	1958	1,269	357,209	698,321,382	13.44	) Average
5	1959	1,410	363,219	727,985,861	14.58	) 14.19
6						)
7	1960	1,487	367,089	731,893,270	13.57	)
8	1961	1,440	357,742	705,051,599	12.71	) Average
9	1962	1,450	370,322	749,050,128	13.59	) 13.32
10						)
11	1963	1,342	387,109	774,838,463	16.22	
12						
13	1964	1,398	415,609	825,547,797	18.85	) Average
14	1965	1,478	454,783	901,120,343	20.62	) 19.74

15                    These statistics establish that at least  
16 up to the year 1963 progress was being made in the reduc-  
17 tion of accident frequency. While there is some fluctua-  
18 tion in annual results you will note that the average  
19 for the three years of 1957, 1958, 1959 was a frequency  
20 of 14.19, whereas the average for the years 1960, 1961,  
21 1962 was 13.32. In 1963 the definition of an accident  
22 and the reduction in the waiting time took place. Since  
23 that time the adverse impact in the field of accident  
24 prevention has been so great that the average for the  
25 years 1964 and 1965 jumped to 19.74. This is an increase  
26 of 48.2 per cent over the average of the three years im-  
27 mediately prior to the change of the Act. To assist you  
28 in evaluating these statistics, may we point out that  
29 the number of employees covered is more than half of all  
30 the employees in the 16 classes represented by I.A.P.A.





1 and approximates one third of all the employees under  
2 Schedule 1 of the Act.

3 We have introduced this information because  
4 we wish to emphasize that the definition of an accident  
5 and the waiting period before compensation payments  
6 commence have a direct relationship to the success or  
7 failure of any accident prevention program.

8 The Canadian Manufacturers' Association  
9 respectfully submits that it is essential that an accident  
10 be clearly defined as being work-related and that the  
11 waiting period be sufficiently long and in terms of  
12 working days so that they no longer work against accident  
13 prevention.

14 Reduced to its very basic essentials, an  
15 accident prevention program is concerned with two items:  
16 things and people. By things we mean plant and equipment;  
17 it is obvious that we do not have to define people.

18 The system of accident prevention in  
19 Ontario recognizes these fundamentals. Minimum standards  
20 for things are set out in legislation and are dealt with  
21 by the enforcement and inspection services of the Depart-  
22 ment of Labour and other government departments. The  
23 Workmen's Compensation Board is constituted to deal with  
24 people. To combine both of these aspects in one institu-  
25 tion, whether it be government departments or the Board  
26 itself would, in our opinion, mix sand with sugar and  
27 achieve no good results. The Workmen's Compensation  
28 Board is world renowned as being people oriented. To  
29 have it become involved in things and enforcement  
30 procedures would destroy its image and seriously impair





1 its effectiveness.

2                   Concerning people, the results being  
3 achieved in the manufacturing industry, as indicated by  
4 the pre-1963 accident frequency figures quoted above,  
5 indicate the advantages of the educational accident  
6 prevention work by employer-sponsored safety associations.  
7 It is important to note that their work and enthusiasm  
8 also prompt a vast voluntary commitment of people's time  
9 and effort in promoting safety. Added to this, for an  
10 employer, is the incentive to reduce Workmen's Compensa-  
11 tion costs, by preventing accidents, and the desire to  
12 avoid heavy financial penalties which the Board is em-  
13 powered to impose on employers with poor accident records.

14                   We can see no advantage in transferring  
15 to the Workmen's Compensation Board the present activities  
16 of the Department of Labour, and other government agencies,  
17 in establishing the minimum safety standards for things,  
18 inspecting those things and providing penalties when  
19 inspections show the standards have not been met. The  
20 Workmen's Compensation Board deals with people and already  
21 has control of the employers' safety associations which  
22 are concerned with the safety education of people.

23                   We note that in a submission presented  
24 to this Commission it has been suggested that the message  
25 of the employers' safety associations in the field of  
26 accident prevention has not filtered down to the work  
27 level. This, of course, is a matter of great concern to  
28 them.

29                   In order to determine the effectiveness  
30 of their own programs, the Industrial Accident Prevention







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2422

1 Associations arranged for a survey to determine the  
2 effectiveness of a new television approach with which  
3 they had experimented on Channel 11, Hamilton. The sur-  
4 vey was conducted by O.R.C. International Limited. Em-  
5 ployees were interviewed on the job in both Hamilton and  
6 Toronto.

7 While we are authorized to file with you a  
8 copy of the complete report on the survey, we would like  
9 to quote three of the questions, together with the replies  
10 which are typical of the overall response in this survey.

11 Question No. 9.

12 On your job how do you learn about safety?

13		<u>Total</u>	<u>Toronto</u>	<u>Hamilton</u>
14	Percentage base	391	180	211
15	Posters, signs, bulletins, books pamphlets	41%	39%	42%
16	Instructions, rules, lectures advice from foreman, etc.	37	41	33
17	Experience, mistakes Learn by being careful	20 9	24 9	17 9
18	Safety Committee, safety program Scheduled meetings on safety	9 8	12 6	6 10
19	Common sense Fellow workers	6 5	9 4	4 5
20	Safety inspection, checks Movies on safety	4 3	4 1	5 4
21	Don't learn about safety, not necessary	3 4	2 4	4 3
22	Others No opinion, did not state	4 2	4 0	3 3

23  
24 Question No. 10

25 Thinking of the kind of advertising we've just been talking  
26 about, what organizations, associations or groups can you  
27 think of who might be behind or sponsor such advertising?

28		<u>Total</u>
29	Percentage base	391
30	I.A.P.A.	32%





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2423

1		<u>Total</u>
2	Company management	17
3	Service groups (Red Cross, St. John Ambulance)	16
4	Government	11
5	Safety and accident prevention groups	10
6	Workmen's Compensation Board	9
7	Motor organizations (OML)	4
8	Insurance Companies	3
9	Unions	2
10	Other	5
11	Don't know	23

9 Question No. 12

10 I am going to read a list of organizations. As I read  
11 each one I'd like you to tell me which of the statements  
12 on that card describes how well you know the organization.  
13 Just tell me the number.

14			Know	Know	Know	
15		Percentage	Very	Fairly	Just a	Never
		Base	Well	Well	Little	Heard of
16	Canadian Automobile Association					
17	Total	391	22%	24	37	17
18	Toronto	180	18%	21	42	19
19	Hamilton	211	25%	26	33	16
20	Construction Safety Association					
21	Total	391	20%	19	35	26
22	Toronto	180	18%	21	29	32
23	Hamilton	211	22%	18	40	20
24	Industrial Accident Pre- vention Associations					
25	Total	391	48%	22	23	7
26	Toronto	180	48%	21	22	9
27	Hamilton	211	48%	24	23	5
28	Ontario Motor League					
29	Total	391	39%	25	27	9
30	Toronto	180	41%	25	28	6
	Hamilton	211	37%	26	25	12
	Ontario Safety League					
	Total	391	20%	20	38	22
	Toronto	180	19%	19	37	25
	Hamilton	211	21%	21	39	19

From Question No. 12 it will be noted that





1 70 per cent replied that they knew the Industrial Accident  
2 Prevention Associations very well or fairly well.

3 THE COMMISSIONER: Where do you get this  
4 70 per cent?

5 MR. OLIVER: Under Industrial Accident  
6 Prevention Associations, if you look at the table, it says  
7 that 48% said they knew them very well and 22 per cent  
8 said they knew them fairly well.

9 These results suggest that the worker on  
10 the job knows the I.A.P.A. of Ontario, knows it is involv-  
11 ed in the safety movement and, in fact, learns most about  
12 safety from the kind of educational endeavour which the  
13 I.A.P.A. conducts and is promoting through the management  
14 of each and every firm.

15 It is our belief that the best weapon in  
16 the fight against accidents is a manager committed to the  
17 goal of no-accidents. Commitment can only be achieved  
18 by voluntary participation. The present employer safety  
19 associations provide the greatest possibility of obtain-  
20 ing this essential voluntary commitment. Even the Inter-  
21 national Labour Organization in Geneva, Switzerland,  
22 which has a world-wide view of safety efforts, is on  
23 record with the statement that the best results in this  
24 field are secured where the voluntary system flourishes.

25 The present method of utilizing employer  
26 safety associations has resulted in more voluntary par-  
27 ticipation in the field of accident prevention in the  
28 Province of Ontario than anywhere else in the world.

29 Only management has the responsibility  
30 under law to provide a safe work place. This is clearly







1 set out in several Ontario Statutes which refer to safety.  
2 For example, the Industrial Safety Act states in ten  
3 separate places "the employer shall". In Regulations  
4 issued under the Act it says 47 times "the employer shall".

5 By law only management has the responsibility.  
6 Moreover management has the money and the skills  
7 to implement effective accident prevention policies.  
8 Management is influenced far more, in every phase of its  
9 operations, by its own commitment to achieve the highest  
10 result rather than by legislation of minimum standards.

11 We believe it would be a grave error to  
12 make any change which would divide responsibility or  
13 might shift responsibility to some area where the people  
14 or institutions involved are not able, or not willing, to  
15 accept the obligation that such responsibility entails.

16 All of which is respectfully submitted.

17 THE COMMISSIONER: That is a very good  
18 brief. You think that by restricting the definition of  
19 "accident" and by restoring or increasing the waiting  
20 period, you would succeed in getting one of the requisites  
21 which you mentioned, cooperation of labour.

22 MR. OLIVER: I think we have to say this,  
23 sir, that, whether employees are represented by organized  
24 labour or not, we have to get their enthusiasm in an  
25 accident prevention program. Now, where there has been  
26 a safety program, what they are talking about is how you  
27 prevent accidents happening. Where it seems it is  
28 impossible for anybody to prevent, there is nothing to  
29 take action on. There is no mechanism, group instruction  
30 or anything else, so the group just throws up their hands





1 and says, "How can we do anything about accident preven-  
2 tion when this kind of thing happens?"

3 THE COMMISSIONER: I follow your argument  
4 Mr. Estey?

5 MR. ESTEY: Mr. Oliver, your membership,  
6 I take it, are predominantly members of the I.A.P.A.?

7 MR. OLIVER: That is right, sir.

8 MR. ESTEY: And they have an annual  
9 budget of about a million dollars?

10 MR. OLIVER: Yes.

11 MR. ESTEY: Have you any idea what your  
12 total assessment is?

13 MR. OLIVER: It is broken up into about  
14 15 or 20 classes.

15 MR. ESTEY: Maybe the Board can tell us  
16 that.

17 MR. KERR: We can obtain that information  
18 for you, sir.

19 MR. ESTEY: Are you familiar with the  
20 workings of the I.A.P.A.?

21 MR. OLIVER: I have a familiarity with  
22 them. I am not directly involved as a director of the  
23 I.A.P.A.

24 MR. ESTEY: Can you tell us, generally,  
25 how their safety program is carried on? Does it fall  
26 into the category of advertising or does it fall into  
27 the category of education of workers as the forestry and  
28 mining seem to do?

29 MR. OLIVER: It has two facets to it.  
30 The education of the workers has, in the past, been mostly





1 done by notices, bulletin board notices and pamphlets  
2 and educational media that is distributed through the  
3 management of the company. They are also available on a  
4 consultative basis to anyone who feels he has a problem  
5 in the field of accident prevention. They are consulted  
6 on how to get a program started, what their obligations  
7 are.

8 MR. ESTEY: Most of your membership would  
9 be employees in the field of manufacturing facilities of  
10 some kind?

11 MR. OLIVER: Yes.

12 MR. ESTEY: Inside workers?

13 MR. OLIVER: Yes.

14 MR. ESTEY: People who go habitually to  
15 the same place of employment, unlike the lumber and con-  
16 struction industries?

17 MR. OLIVER: Yes

18 MR. ESTEY: Does your industry, be it  
19 through the C.M.A. or safety associations or the employer,  
20 conduct a program of safety in employment in that factory?

21 MR. OLIVER: Does the Accident Prevention  
22 do that?

23 MR. ESTEY: C.M.A. members, or the associa-  
24 tion or anyone else in this field?

25 MR. OLIVER: The people in the plant  
26 conduct their own safety program.

27 MR. ESTEY: They do it?

28 MR. OLIVER: It is their responsibility.  
29 Now, the advice and counsel they receive from the I.A.P.A.,  
30 assists them in discharging that responsibility.







1 MR. ESTEY: Do you know if they discharge  
2 that responsibility by any kind of roving team, job  
3 training instructors?

4 MR. OLIVER: We have Mr. Anderson here,  
5 of the I.A.P.A., who could perhaps answer that.

6 MR. ANDERSON: Mr. Commissioner, yesterday  
7 you asked me if I had anything to contribute and I said  
8 I had not at that time. This is a point where I might  
9 be able to help. My name is R.G.D. Anderson, General  
10 Manager of the Industrial Accident Prevention Association  
11 of Ontario. I would like to say that our program is  
12 divided into several different approaches. We have a  
13 field staff of approximately 40 men, 17 of whom are  
14 instructors and management consultants, and the rest are  
15 somewhat similar to the men Mr. Reeves spoke of yesterday,  
16 examining conditions, making speeches, showing movies  
17 and doing any of these things which get to the individual  
18 employee and helping the employer with technical matters.  
19 We have an engineering branch of that technical group  
20 which consists of 2 professional engineers, who deal with  
21 problems in the industrial hygiene field. We have a  
22 very wide program of education through publicity, through  
23 newspapers, radio and television, pamphlets and other  
24 types of educational material. Then we produce statistics  
25 such as those that have been quoted by the C.M.A. We  
26 have a report produced every month from approximately  
27 1,400 employers, who represent about half the total  
28 number of employees in our manufacturing classes. We  
29 represent both the manufacturing classes and the retail  
30 stores.





1 MR. ESTEY: How much did you spend on  
2 television in 1965?

3 MR. ANDERSON: Up until this year we had  
4 used on one media, television films which we used our-  
5 selves, 6 of them at the cost of \$1,500, approximately  
6 each. They have been used in all the TV stations in  
7 Ontario and many times on a national basis, and have been  
8 purchased from us by other provinces, such as Manitoba,  
9 New Brunswick. The stations are interested in public  
10 service, and the material we have supplied them, they  
11 felt good enough to make wide use of. This year, for the  
12 first time, we tried an experiment in the City of Hamil-  
13 ton. We spent a total of \$50 thousand, including a  
14 survey which was referred to this morning, in a period of  
15 six months, on television, CHCH TV in Hamilton, radio,  
16 the Hamilton newspaper and in busses. The results are  
17 so impressive that our directors are considering increas-  
18 ing the program next year in the Toronto area, which is  
19 our biggest problem area.

20 MR. ESTEY: Whom should I ask this question  
21 on this report?

22 MR. ANDERSON: I suggest you ask the C.M.A.,  
23 but anything dealing with the I.A.P.A., I would like to  
24 help on that myself.

25 MR. ESTEY: Mr. Oliver, you deal in your  
26 brief with two proposals made by several organizations,  
27 two of whom occur to me to be trade unions and perhaps  
28 others. Firstly, that there may be some advantage or  
29 disadvantage in having labour participate in the safety  
30 program or accident prevention campaign, whatever you





1 like to call it. You seem to take the stand in your brief  
2 that it would not add to the efficacy of the program.

3 MR. OLIVER: I think the fact that organ-  
4 ized labour now deals with the Ontario Safety Council  
5 has an opportunity to deal with safety at that level; but  
6 we say that where you deal with accidents in the plant  
7 itself, the relationship between that particular employer  
8 and employees, will determine the interest in safety  
9 prevention.

10 MR. ESTEY: What about the accident  
11 prevention associations?

12 MR. OLIVER: Again, we feel that manage-  
13 ment has the responsibility. Management pays for it,  
14 management participates on a voluntary basis, and we  
15 feel this achieves better results.

16 MR. ESTEY: The second proposal with  
17 which you deal is the idea of moving accident prevention  
18 legislation and enforcement away from the present branches  
19 of government in which they reside to the Workmen's  
20 Compensation Board, and you feel that this would not  
21 result in the elimination of accidents.

22 MR. OLIVER: That is right.

23 MR. ESTEY: I think that is an easy  
24 criticism. Why do you say it won't reduce accidents?

25 MR. OLIVER: Because we think that accid-  
26 ent prevention goes into two areas, things and people,  
27 and we think that the mixture of things and people in  
28 the Board would impair the effectiveness of the Board.

29 MR. ESTEY: The Board deals with first  
30 aid equipment, first aid regulations, that you have to







1 hang that up in the plant in a certain way in a plant of  
2 a certain size

3 THE COMMISSIONER: All these compensation  
4 cases arise from a mixture. It isn't the best way of  
5 stating it, but I think I understand what Mr. Oliver means.  
6 In other words, that the specifications as to machinery  
7 and equipment, generally speaking, on the job shall be  
8 under the Department of Labour or the Department of Mines,  
9 and the enforcement of these regulations should remain  
10 in that spot.

11 MR. OLIVER: That is what I have in mind

12 THE COMMISSIONER: The general idea here  
13 seems to be that the Board should be restricted to educa-  
14 tional matters and be divorced from the question of  
15 enforcement. Others have said that, on the contrary, it  
16 would be better to have it brought under the jurisdiction  
17 of the Board.

18 MR. OLIVER: Not everybody likes to wear  
19 a hard hat, and enforcement does not create the kind of  
20 atmosphere to stop accidents.

21 MR. ESTEY: If the Workmen's Compensation  
22 Board receive a wave of claims where people are losing  
23 their fingers in a turret lathe and the Workmen's Compensa-  
24 tion Board is tired of paying these claims, and there  
25 could be a protection put on the turret lathe, wouldn't  
26 the Board have the right to legislate as to safety devices?  
27 They are the first person to see the need.

28 MR. OLIVER: No, they are not. It is  
29 the employer. A valued employee has lost a finger. Some-  
30 body took the risk 33 times, and when you have an accident





1 you have lost 330 times as much time, and that is the  
2 cost.

3 THE COMMISSIONER: Well, this labour  
4 turnover, whether he is a valued employee or not, all of  
5 it amounts to loss, except for the fly-by-night operator.  
6 Of course, it has also been said that a company that does  
7 spend a lot of money on accident prevention, and so on,  
8 is penalized by the failure to enforce these regulations,  
9 as opposed to companies which might be called fly-by-night  
10 companies, who have no responsibility and hope to get  
11 through with the job as quickly as possible, either go  
12 bankrupt or go into other business.

13 MR. OLIVER: Yes. But it seems to me  
14 the best you can hope to get in enforcement is a minimum  
15 standard. You have to get something that is acceptable  
16 to a wide spectrum of people, and the minimum does not  
17 necessarily stop accidents.

18 MR. RUSSELL: On the matter of enforce-  
19 ment, only 8 per cent of the accidents which occur in our  
20 industries result from machines. The rest of it, the  
21 other 92 per cent, has to do with the failure of people.

22 THE COMMISSIONER: What is your industry?

23 MR. RUSSELL: I am speaking of the  
24 industries covered by our Association. We don't feel  
25 we can legislate to make people act the way they should  
26 act. This is true on the highway. This is why we  
27 emphasise the difference between people and things. To  
28 get people to act safely and to sell them safety, you  
29 cannot do it by compulsion. That is our submission, sir.

30 MR. ESTEY: As to legislation, with





1 respect to accidents, the proposal has been made, as I  
2 mentioned a moment ago, that we move the legislative power  
3 to use a big word, meaning the right to make regulations,  
4 out of the Labour Department into the Workmen's Compensa-  
5 tion Board, and I put it to you that, isn't the Board the  
6 first one to see the need, and you say no, it is the  
7 employer. The question is not, are we going to have the  
8 rules, but who should make them. I don't see why the  
9 Board should not make the rules instead of the Department  
10 of Labour. Somebody has to make them.

11 MR. OLIVER: I don't see any advantage in  
12 having it in the Board, sir. We agree that minimum  
13 standards for things are necessary and we surely have the  
14 means of legislating minimum standards for things. Change  
15 just for change sake isn't necessarily a good thing.

16 MR. ESTEY: It was said the Board has a  
17 direct interest, be it financial, humanitarian, or both,  
18 arising from the fact that they see the accident claims,  
19 they see the repetitiveness of the claims. Now, if you  
20 think that isn't a good thing, it isn't a good thing.

21 MR. ANDERSON: I would just like to point  
22 out that we have heard a lot in these Hearings, in the  
23 last few days. Generally speaking, in the western prov-  
24 inces, it is an overall agency, the Board, and as far as  
25 we can gather, except in one case, which is the lumber  
26 industry, which prevails in British Columbia, the rate of  
27 accidents in those four western provinces where this  
28 system prevails, is not as good as it is in Ontario. It  
29 seems to me a retrograde step to put all the eggs in one  
30 basket. I think our record in Ontario is as good as it is







1 because we have the Workmen's Compensation Board, the  
2 Safety Association, and so on.

3 MR. OLIVER: Listening to a question you  
4 asked earlier, the question of the relative importance  
5 of things, there is now 92 per cent of people falling on  
6 floors, and so on and only 8 per cent of our accidents  
7 happen from machinery and equipment, and so forth.

8 MR. ESTEY: That invites a question, but  
9 I will withstand the temptation. Your figures remind me  
10 of the air force saying that accidents don't happen because  
11 of pilots. Where do you get those figures, 92 per cent  
12 and 8 per cent?

13 MR. ANDERSON: The 8 per cent figure is  
14 where machines are the cause of accidents.

15 MR. ESTEY: What has been the effect of  
16 the change of rules on accidents, generally? You say the  
17 effect has been serious and not beneficial, particularly  
18 relating to the change in the definition of "accident".  
19 I take it you say if you eliminate the waiting period,  
20 the effect will become more serious.

21 MR. OLIVER: Right.

22 MR. ESTEY: One thing that bothered me  
23 long before I saw it in your brief, was the arithmetic  
24 of this thing. You say the result of all this is an  
25 increase of 8.5 per cent in the number of claims recog-  
26 nized by the Board, but when you translate that to dollars,  
27 all you get is \$635 thousand, 725, although the total  
28 number of claims paid out came to 7 odd million dollars.  
29 I don't understand it, and I hope you can explain that.  
30 If you can't, I will ask the Board.





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2435

1 MR. RUSSELL: Mr. Estey, in the first  
2 place, we don't believe the 8.5 per cent and with that,  
3 we don't believe the dollars either. The estimates pro-  
4 vided by the Board to our mind, cannot be right. We have  
5 accident reports coming in from our membership. The  
6 estimates made by the Board as presented to you, have  
7 something wrong with them. In this connection, the  
8 Board made some other estimates some years ago which are  
9 far different from the ones you heard recently.

10 MR. ESTEY: Your figures on page 4?

11 MR. RUSSELL: We are showing that, in  
12 our experience the figures provided by the Board have  
13 something the matter with them. In the first place, they  
14 are estimates. Our figures are facts. Ours are actual  
15 facts of experience, the others were estimates, and I  
16 just don't believe this 1.1 per cent. We say there is  
17 something wrong with the data of the estimate. As a  
18 matter of fact, we don't really see how such an estimate  
19 can be made retroactive.

20 I would like to read to you a statement  
21 by the Vice-Chairman of the Workmen's Compensation Board  
22 made late in 1963. He was speaking to a seminar of the  
23 Workmen's Compensation Board. He said:

24 "... referring to the new amendment  
25 disablement arising out of employment -  
26 that the number of total claims up  
27 until November of this year"

28 - that is the year 1963

29 "in respect to January to November  
30 last year, are up about 20%. I didn't





ask the fellows to go into a breakdown, but that increase shows that a great percentage of the increase are cases that wouldn't have been covered by the Act without this amendment."

That was by the Vice-Chairman of the Workmen's Compensation Board in 1963, before they had even had a year's experience of the new amendment.

MR. ESTEY: Where are you reading that from, Mr. Russell?

MR. RUSSELL: I am reading it from -

MR. ESTEY: We would be glad to have that.

MR. RUSSELL: We would be glad to make you a copy of this. He goes on to say:

"From January 1st to November, 1963, there have been 3,350 back cases brought within the provisions of the Act. This will give you an idea how wide-spread this condition is. The total cost of compensation has been \$8,437,000. So when somebody says the Board never allows a back case, or you can never get a back case through, well, 3,350 somehow slipped by us."

MR. ESTEY: That is the same statement?

MR. RUSSELL: Out of the same statement and we would be glad to file it.

MR. ESTEY: What figure do you say, if you have any figures amongst the three of you, is the true figure, instead of 8.5 per cent, which is in table







1 5 and 6 of the Board's submission to us and which is  
2 repeated on your page 3 this morning?

3 MR. RUSSELL: We don't really know where  
4 the figure is. There was a definition of an accident -  
5 I am referring now just to the definition of accident  
6 and leaving the waiting period out - there was a defini-  
7 tion of an accident and people apparently understood it,  
8 going for a long time. Then the definition was changed  
9 and it is my view - I speak now personally - that people  
10 have been finding out more and more that they can get  
11 more and more allowed through the Board. So that the  
12 impact is a growing impact. People who, in 1963, started  
13 to move in 1964 the frequency went up some more, in 1965  
14 the frequency rose again and in 1966, so far this year,  
15 the frequency is up some more: this, in comparison with  
16 six years quoted to you there in accident frequency,  
17 where employees in our industry had been able to make  
18 some improvement. We can't think of anything that is  
19 causing this increase other than that it is the amendments  
20 in the Act. As a matter of fact, people are working  
21 harder today to prevent accidents than they were before  
22 because of their unfortunate experience.

23 MR. ESTEY: And yet your figures have  
24 gone up some 5 per cent.

25 MR. RUSSELL: Gone up some 50 per cent,  
26 sir.

27 MR. ESTEY: Well the six figures on your  
28 average, yes, 50 per cent, but it has gone up 6 per cent  
29 on the average.

30 MR. RUSSELL: Yes.





1 MR. ESTEY: Now let me ask you this:

2 Obviously you can't say what the percentage of the increase  
3 has been. I take it what you are saying is that when you  
4 make the screen more coarse, the more goes through it?

5 MR. RUSSELL: That is correct

6 MR. ESTEY: So, therefore, in 1963 when  
7 you enlarged the hole in the sifting screen, you jumped  
8 to 50 per cent in the average number of claims.

9 MR. RUSSELL: This seems to be it.

10 MR. ESTEY: You can't of course, break  
11 that down and say how much is attributable to the waiting  
12 period reduction or how much is attributable to the new  
13 concept of an accident

14 MR. RUSSELL: It is a combination of both.

15 MR. ESTEY: On this table you have provided  
16 us with, I am interested in one thing which you said, or  
17 Mr. Oliver said. This table reflects the experience of  
18 one-third of the employees covered by the Act. Did I hear  
19 that correctly?

20 MR. OLIVER: Of schedule 1 of the Act, yes.

21 MR. ESTEY: So that the I.A.P.A. adminis-  
22 ters safety regulations, safety education to a third of  
23 the people covered by the Act?

24 MR. OLIVER: No, this is just the number  
25 of firms that actually report frequency figures back to  
26 the I.A.P.A.

27 MR. ESTEY: What is the figure from the  
28 I.A.P.A.?

29 MR. ANDERSON: I would say that we have  
30 over 800,000 employees of a membership in the manufacturing





1 classes, another 150,000 in the retail trades, and it is  
2 my understanding that there are close to two million  
3 people now covered by the Workmen's Compensation Act.

4 MR. ESTEY: So you are somewhere close to  
5 a half of all the people covered by the Act?

6 MR. ANDERSON: We account for over half  
7 of the assessment, so I would say that is approximately  
8 correct.

9 MR. ESTEY: Is your budget a half of the  
10 total of the safety association's budget?

11 MR. ANDERSON: No, it is about one-third.  
12 Our budget this year was a million and 88 thousand dollars  
13 to which will be added what the Board pays to us for the  
14 services they render.

15 MR. ESTEY: Is there any figure for the  
16 pay-outs going to the I.A.P.A. constituency?

17 MR. ANDERSON: I think last year our  
18 figure was about \$26 million out of the 78 million. I  
19 can file with you an annual report of the I.A.P.A., which  
20 will give you those figures, Mr. Estey.

21 MR. ESTEY: We would like to have that.

22 Now, Mr. Oliver, I take it that your sub-  
23 mission with respect to this table, is that the dramatic  
24 change which occurs in the table and the gap between 1963  
25 and 1964 is attributable to the two changes in the Act  
26 immediately preceding it.

27 MR. OLIVER: Yes, sir.

28 MR. ESTEY: And I take it there were no  
29 other conditions changing throughout your industry which  
30 would explain it. It would be pretty hard to imagine that







1 there were, but I am asking you, you are the expert

2 MR. OLIVER: No, sir, I can't think  
3 anything

4 MR. ESTEY: Has anybody done any  
5 in your manufacturing field somewhere in the western  
6 world, about the ratio relationship in terms of accident  
7 and the shortening work week? Is there any factor there?  
8 Do you get more accidents the longer the week and fewer  
9 the shorter? Or is it vice versa?

10 MR. ANDERSON: Mr. Estey, one figure that  
11 might be interesting there is that if you go back to 1920  
12 when we certainly had a six day work week, in our experience  
13 in 72 temporary disability in cases, that is those who  
14 had lost a week or more per thousand persons employed,  
15 this figure went down in 1962 to 35 per thousand persons  
16 employed and it is now back up to about 45 per thousand  
17 employed.

18 MR. ESTEY: What was the first year you  
19 gave us?

20 MR. ANDERSON: 1920.

21 THE COMMISSIONER: In other words, on  
22 the six day work week, it was somewhat heavier?

23 MR. ANDERSON: Yes, sir, but of course  
24 there was nothing like the amount of educational effort,  
25 nor was there the incentive in many ways, for workers  
26 to pay attention to their own safety that there is today.

27 MR. ESTEY: There would be so many other  
28 variables that perhaps that figure would not be too  
29 useful. For example, there was a lot of physical labour  
30 in 1920 which must have been a great deal heavier than





1 that which predominates now.

2 MR. ANDERSON: Yes.

3 MR. ESTEY: Mr. Oliver, in your table on  
4 page 4 this is a computation which is based upon two  
5 basic factors, I take it. One is the gross hours worked  
6 and then the frequency of claims which, apparently, are  
7 claims recognized by the Board per million man hours?

8 MR. OLIVER: That is correct.

9 MR. ESTEY: This is based, I take it,  
10 claims which are recognized and not claims which are  
11 rejected?

12 MR. OLIVER: That is correct.

13 MR. ESTEY: And this is based on the  
14 reports which you received from the employers?

15 MR. OLIVER: That is correct.

16 MR. ESTEY: From their records of the  
17 number of cases that have been charged against them, I  
18 suppose?

19 MR. OLIVER: Or where they have been  
20 informed by the Board that the claim has been allowed.

21 MR. ESTEY: Whether or not it has been  
22 assessed to them or the second injury fund, or somewhere  
23 else?

24 MR. OLIVER: Yes.

25 MR. ESTEY: Do you have any statistics -  
26 does this go any further than you have sorted out here?  
27 Do you have any continuation of these figures in your  
28 records showing the number of dollars involved so that  
29 you could answer the question that the dollars involved  
30 reflect about the same percentage as the frequency per





1 million man hours?

2 MR. ANDERSON: We have the total amount  
3 of cost each year, Mr. Estey, and the number of claims  
4 that have gone through our records in each year but the  
5 figures that the C.M.A. has given you this morning are  
6 based on voluntary reports to us each month by employers  
7 who send us their hours of work and the number of cases  
8 that they have reported to the Board during the month  
9 which they know have lasted more than two calendar days  
10 and then we tabulate the frequency in our office.

11 MR. ESTEY: Does it follow that because  
12 it lasted more than two days the Board will recognize  
13 the claim?

14 MR. ANDERSON: Not necessarily.

15 MR. ESTEY: So these figures are based  
16 on over two days injuries but not necessarily ones  
17 compensated by the Board?

18 MR. ANDERSON: Not necessarily.

19 MR. ESTEY: Do you have any figure of  
20 the amount of money paid out in these years by the Board  
21 under your classifications?

22 MR. ANDERSON: Yes, for each year.

23 MR. ESTEY: Do you know, Mr. Anderson,  
24 if the percentages with respect to the claims, would be  
25 along the same line as the percentages on the far right  
26 of this table on page 4?

27 MR. ANDERSON: I am not sure, because the  
28 cost figures would not be directly related to these but  
29 I would be very glad to have for you this afternoon,  
30 copies of our reports for those years and this would give







1 you the cost figures.

2 MR. ESTEY: All right. What I am  
3 interested in is, what happened after 1963 with respect  
4 to the costs.

5 MR. ANDERSON: They have gone up very  
6 considerably.

7 MR. ESTEY: They have gone up 19.7. If  
8 they have gone up 50 per cent, then you would be on the  
9 same basis providing you had a constant dollar, which you  
10 have not got.

11 MR. ANDERSON: Which we have not got, no.

12 MR. ESTEY: You could tell by looking at  
13 it, it is close.

14 MR. ANDERSON: I think you will find the  
15 trend is much the same.

16 MR. ESTEY: So not only has the claim  
17 frequency increased, but the nature of the claims has  
18 remained about the same - that is the percentage of  
19 partial disability and permanent disability and short  
20 and long claims would be about the same?

21 MR. ANDERSON: They vary from year to  
22 year but the predominating percentage, the thing that we  
23 deal with, is the one that involves the absence of more  
24 than two calendar days which becomes a compensable claim.

25 MR. ESTEY: We ask you this because we  
26 have heard a great deal about the back claim, the kind  
27 of injury that can't be demonstrated by looking either  
28 with the eye or through Xray and the kind of thing which  
29 can happen with or without an accident or an event associa-  
30 ted with it and if this kind of claim has been accelerated





1 by the change of the rules in 1963, then perhaps your  
2 figures on the cost of the increase, will be greater than  
3 your figures on frequency increase which have been 50 per  
4 cent.

5 MR. ANDERSON: The Board would have those  
6 figures on back injuries, we would not. We don't isolate  
7 them ourselves.

8 MR. ESTEY: I don't want to confine it  
9 to back; I just want the gross dollar entailed, because  
10 we are not here to judge a contest, we want to compare  
11 the figures. The Board has given us the figures and we  
12 wondered if we could get the others from you.

13 MR. ANDERSON: We will give it to you  
14 this afternoon.

15 MR. OLIVER: I might explain that the  
16 purpose of this feed-back to the employer on the accident  
17 prevention program, is how well he is doing as against  
18 someone else and, as I indicated to you, the feature for  
19 an /accident prevention program is frequency. This is what  
20 we are concerned with, the frequency of accidents.

21 MR. ESTEY: I can understand why frequency  
22 is a good yardstick or a red light to flash on if it goes  
23 up but I am just wondering whether you weren't also con-  
24 cerned with the nature of the accidents which are prevalent  
25 because some are much more expensive than others. Without  
26 saying for a moment that you are much more interested in  
27 money than in humanity, there must be a relationship.

28 MR. OLIVER: I think we still have to  
29 stress that our objective in manufacturing is no accidents  
30 and whenever a frequency figure is involved, I am sure





1 each firm is concerned with the number of accidents.

2 MR. ESTEY: You are not concerned with  
3 cheap accidents, but no accidents?

4 MR. OLIVER: Right.

5 MR. RUSSELL: As we say in the brief, you  
6 never know what kind of an accident is going to be expen-  
7 sive until after it happens. In so many cases, in two  
8 cases the self-same accident might create a minor cost or  
9 a very large cost so the object is to prevent the unsafe  
10 act because something might arise out of it that would  
11 concern us.

12 THE COMMISSIONER: We will adjourn for  
13 ten minutes.

14 --- Short recess.  
15

16 MR. ESTEY: Mr. Oliver, you say that you  
17 conducted a survey in order to determine the effectiveness  
18 of the programs carried on, I take it, by the employers,  
19 by the C.M.A. and by the I.A.P.A.?

20 MR. OLIVER: I.A.P.A.

21 MR. ESTEY: When was this survey conducted?

22 MR. OLIVER: The report is October, 1966.

23 MR. ESTEY: Hot off the press.

24 MR. OLIVER: Yes.

25 MR. ESTEY: Prior to being conducted, was  
26 there much use by the association or the C.M.A. of tele-  
27 vision?

28 MR. ANDERSON: No, sir, as I attempted  
29 to make clear before, we have used television for some  
30 ten years but only on this one-minute spot basis where we were







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2446

only

1 not paying for it at all and /for the first time in 1966  
2 have we paid for any television time.

3 MR. ESTEY: I understood that, but what  
4 I want to know is, immediately prior to, or in the period  
5 prior to this survey, was television used on any basis  
6 by the I.A.P.A.?

7 MR. ANDERSON: It was used from May of  
8 this year until October of this year

9 MR. ESTEY: On CHCH in Hamilton?

10 MR. ANDERSON: Yes.

11 MR. ESTEY: And also on Toronto stations?

12 MR. ANDERSON: No, only in the Hamilton  
13 area.

14 MR. ESTEY: In the list of answers to the  
15 questions, there is none, I take it, that would naturally  
16 be answered by reference to television, is there?

17 MR. ANDERSON: There are. We would be  
18 happy to file a copy of the complete survey with you.

19 MR. ESTEY: This television question has  
20 come up so I would like to know what the result was with  
21 reference to television. Was it found to be effective or  
22 ineffective? Have you any extras of those?

23 MR. RUSSELL: Yes.

24 MR. ESTEY: Who made this survey?

25 MR. ANDERSON: It was made by Opinion  
26 Research International, which is a Canadian branch of  
27 Opinion Research of New Jersey.

28 MR. ESTEY: How long have they been in  
29 Canada?

30 MR. ANDERSON: In Canada, I don't know.





1 They have been in business in the United States for at  
2 least 20 years.

3 MR. ESTEY: How many people were inter-  
4 viewed in conducting the survey?

5 MR. ANDERSON: Approximately 400 - 391.

6 MR. ESTEY: And all in Hamilton?

7 MR. ANDERSON: 180 in Toronto, 211 in  
8 Hamilton.

9 THE COMMISSIONER: This will be Exhibit  
10 37.

11 EXHIBIT NO. 37: Survey by Opinion Research Incor-  
12 porated  
13

14 MR. ESTEY: Where do I find the section  
15 on television?

16 MR. ANDERSON: That is just what I am  
17 looking for. It is in here.

18 MR. ESTEY: Here it is, page 6. 89 per  
19 cent of the people saw this on television

20 MR. ANDERSON: Right.

21 MR. ESTEY: And the Toronto people look  
22 at television more than Hamilton, as a result of this  
23 survey.

24 THE COMMISSIONER: At the bottom of page  
25 3, the last paragraph, you might read it.

26 MR. ANDERSON: Shall I read it, sir?

27 THE COMMISSIONER: All right.

28 MR. ANDERSON: "As might be expected,  
29 approximately 9 workers in 10 remember  
30 seeing some safety ads on television.





1 Exposure through radio and newspaper  
2 does not exceed a 1 in 5 ratio for  
3 any group. One-third of the men inter-  
4 viewed recall seeing this kind of adver-  
5 tising in some other media. These are  
6 posters at work, bulletin board notices,  
7 posters away from work and outdoor  
8 billboards."

9 MR. ESTEY: In order to evaluate that  
10 statement which, I take it, is based on page 6 and the  
11 detailed table, you would have to know how many radio  
12 stations were used, what the frequency of the ad was and  
13 how long the ad was and you would also have to know the  
14 frequency and length of the television ad and how many  
15 newspaper ads were run.

16 MR. ANDERSON: Yes.

17 MR. ESTEY: And that is taking us pretty  
18 far afield, but perhaps you could give me a summary of it

19 MR. ANDERSON: I could not begin to give  
20 you a summary of those points, Mr. Estey.

21 MR. ESTEY: How much did you spend on  
22 TV prior to this survey?

23 MR. ANDERSON: Prior to this survey, we  
24 didn't spend anything other than, as I said - or do you  
25 mean in this year?

26 MR. ESTEY: You told me you did.

27 MR. ANDERSON: In this year?

28 MR. ESTEY: Prior to this ad.

29 MR. ANDERSON: This year we have spent,  
30 up to the end of September, I think it is \$43,000 on







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2449

1 television. No, I beg your pardon, television, radio  
2 and the newspapers.

3 MR. ESTEY: The whole works?

4 MR. ANDERSON: Right.

5 MR. ESTEY: And you have got 9 in 10  
6 answering that they saw it on television.

7 MR. ANDERSON: That is true. There is,  
8 of course, in the Hamilton area particularly, only the  
9 one station. It extends well into Toronto but it is  
10 watched by most people in the Toronto area.

11 MR. ESTEY: You didn't run any ads, you  
12 told me, on the Toronto stations?

13 MR. ANDERSON: As far as I know, there  
14 were no ads at all on any of the Toronto stations in a  
15 period up until October. There may have been some in the  
16 month of October on this one-minute film release that we  
17 have had in previous years.

18 THE COMMISSIONER: But you made a survey  
19 in Toronto to see how many had listened to the Hamilton  
20 station?

21 MR. ANDERSON: That is right, sir. These  
22 Toronto interviews are mainly in the Scarborough area  
23 because I wanted to get as far away from CHCH-TV as I  
24 could in the Toronto area and see what interest there  
25 was and contrast that with what I knew was a direct  
26 listening public in Hamilton.

27 MR. ESTEY: What troubles me is that the  
28 television industry's penetration table doesn't show  
29 CHCH-TV getting anything like 9 in 10 in Toronto.

30 MR. ANDERSON: That is for sure.





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2450

1 MR. ESTEY: This is quite a lot in the  
2 advertising world. Well, all right.

3 THE COMMISSIONER: There is something  
4 else I would like to know. This is a survey - oh, I see,  
5 total number of people that were covered was 391, is  
6 that correct?

7 MR. ANDERSON: Yes.

8 THE COMMISSIONER: Of which 180 were in  
9 Toronto and 157 recalled having seen something in one of  
10 these media?

11 MR. ANDERSON: These were interviews with  
12 workers in plants.

13 THE COMMISSIONER: All right. What hour  
14 of the day did it run?

15 MR. ANDERSON: I have a schedule in the  
16 office but I couldn't tell you, sir. It has been run  
17 at about four different periods during the day, on, I  
18 believe, three days a week.

19 MR. ESTEY: Of course, this doesn't mean  
20 they saw your ads on safety, does it? This means they  
21 saw some safety ads on television.

22 MR. ANDERSON: Which they connected with  
23 this campaign, right.

24 MR. ESTEY: It just says "these ads" and  
25 when I take it back I don't see that "these ads" mean  
26 anything.

27 MR. ANDERSON: Well, when you go back to  
28 the questions about the four different themes that were  
29 used in the campaign, you will find that most of the  
30 respondents remember the particular themes that were used





1 as, for example, "lift and turn like an expert" and it was  
2 very interesting to me that that particular type of appeal  
3 seemed to have got through to people much more effectively  
4 than a general sloganeering type of approach like "be wary ,  
5 "take care", things like that. This is my impression of  
6 the survey as I read it just the other day

7 MR. ESTEY: Does this mean that of the  
8 391 people who were asked the question, 358 of them  
9 answered in the affirmative question number 1?

10 MR. ANDERSON: If you turn to page 7, Mr.  
11 Estey, under No. 5, "which ones do you remember?", this  
12 was only asked of those people who said they had seen  
13 some of this advertising.

14 THE COMMISSIONER: That does not answer  
15 Mr. Estey's question. Question 1 shows 391 people recalled  
16 seeing or hearing such advertising.

17 MR. ANDERSON: Right, 92 per cent of those  
18 391 did recall seeing or hearing such an advertising.

19 THE COMMISSIONER: So that gives you your  
20 figure of 358 down in number 2?

21 MR. ANDERSON: That is correct.

22 MR. ESTEY: This gets more and more  
23 incredible unless the question number 2, when it says,  
24 "these ads" does not mean your ads?

25 MR. ANDERSON: But it does mean these  
26 ads, Mr. Estey, because if you will turn to page 7 under  
27 question 5, they were asked a question about these  
28 specific ads - "lift and turn like an expert", "you can  
29 save a life by reading this" and that was particularly  
30 on the busses, "don't let a slip make you a fall-guy",







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2452

1 "be wary - not sorry" and "safety prevents sorrow".

2 MR. ESTEY: And those were all yours?

3 MR. ANDERSON: Those were all ours.

4 MR. ESTEY: You didn't borrow them from  
5 the American associations?

6 MR. ANDERSON: We did not, these were all  
7 created by ourselves.

8 THE COMMISSIONER: Once again you started  
9 with 391 people.

10 MR. ANDERSON: Right.

11 THE COMMISSIONER: 358 saw or heard ads.  
12 Then you come down to specific ads. "Do you remember any  
13 of these headings?" and 87 per cent of the 358 said, "Yes"  
14 so when you come down to the specific headings, you are  
15 now down to 313....

16 MR. ANDERSON: Yes, sir.

17 THE COMMISSIONER:... that did remember  
18 specific headings, the ones that you created?

19 MR. ANDERSON: Yes.

20 MR. ESTEY: The figures begin to come out  
21 correctly in that Hamilton outruns Toronto quite a bit  
22 on those answers on the specifics, but it still seems  
23 like an incredible result.

24 MR. ANDERSON: Well, I can assure you that,  
25 as an old advertising man myself, it is the most over-  
26 whelming result that I have ever seen in any kind of  
27 survey, but I don't think that it is all due to the  
28 television: I think it is due to the fact that we have  
29 done so much work with the employees and the employers  
30 in the plants in these two areas, Toronto and Hamilton.





1 We have 50 years of experience in this field going back  
2 to 1915 when the Association was first established. So  
3 I think it is cumulative. I don't think it can all be  
4 ascribed to the particular campaign but I am very encour-  
5 aged by what comes out of this.

6 MR. ESTEY: Let us go on to number 9  
7 which is not television at all but on-the-job instruction.  
8 I am not sure I understand this table. First of all,  
9 the percentage adds up to 151 per cent. Am I right in  
10 that?

11 MR. RUSSELL: That is right.

12 THE COMMISSIONER: What table are you  
13 looking at?

14 MR. ESTEY: Page 7, question 9. It is  
15 in the brief at 7 and 9.

16 MR. RUSSELL: Some people answered yes  
17 to more than one question. This is why it adds up to  
18 more. I believe this is mentioned in the survey itself.

19 MR. ESTEY: So that would mean that some  
20 learned it from posters and they also learned it from  
21 instruction?

22 MR. RUSSELL: Yes.

23 MR. ESTEY: And so on. Well, all that I  
24 can draw then, from this table is that it seems that  
25 pamphlets and posters get through to the audience on a  
26 greater percentage basis than live lectures, is that  
27 correct?

28 MR. OLIVER: Yes. I think the answer is  
29 correct, it appears that way.

30 MR. ESTEY: Is that because of the





1 character of the communication or is it because there are  
2 more posters than there are instructional group meetings  
3 and so on; which is it, Mr. Oliver?

4 MR. OLIVER: I don't know but I think we  
5 do know that people remember more from what they see than  
6 what they hear.

7 THE COMMISSIONER: There is a difference  
8 of opinion about that, but it might also be in this  
9 particular case, we have heard here that there is not  
10 very much instruction on the plant level in some things  
11 such as construction work and so, maybe the fact is that  
12 anything they have learned, they have learned from some  
13 other source.

14 MR. OLIVER: We are dealing here with  
15 entirely manufacturing.

16 THE COMMISSIONER: And with manufacturers  
17 is it their practice to have safety instruction at the  
18 plant level?

19 MR. OLIVER: Yes, but it isn't always  
20 identified as safety instruction. It is actually how  
21 you do this job. You do the instruction of teaching the  
22 person how to do the job which involves safe practice,  
23 but it is not necessarily identified that way.

24 MR. ESTEY: I see that, for example, there  
25 are very few people who say they learn about safety at  
26 scheduled meetings on safety.

27 MR. OLIVER: That is right, sir.

28 MR. ESTEY: Now you are drawing a distinc-  
29 tion there, I take it, between a plant meeting to describe  
30 how to operate this machine and a plant meeting which is







1 announced as being a safety meeting.

2 MR. OLIVER: That is right.

3 MR. ESTEY: Even though they both deal  
4 with safety?

5 MR. OLIVER: Exactly, which reminds me of  
6 a comment this morning that you have a captive audience  
7 and they have to listen. They don't, sir. You may have  
8 a captive audience, but they don't have to listen.

9 MR. ESTEY: Well, all schools are captive  
10 audiences, I suppose.

11 MR. OLIVER: What you have to have is the  
12 motivation to get people to learn.

13 MR. ESTEY: This bothers me. These people  
14 all go to the same place to work and it is much easier to  
15 give them the instruction than it is in the forestry case  
16 and the forestry people make a tremendous effort to get  
17 these live shows out to the people who are going to  
18 benefit. They don't mail pamphlets which would be much  
19 easier. Is that philosophy not subscribed to in the  
20 manufacturing field?

21 MR. OLIVER: I think what we are saying  
22 is that accident prevention is unique depending on the  
23 situation that exists and you have to make a determination  
24 of what is the best approach to the problem in your  
25 particular industry and in your particular plant and in  
26 your particular local situation, and this is why the I.A.  
27 P.A. have suggested they have many facets to their program  
28 in order that they can make the right combination for  
29 that particular manufacturing industry with this particu-  
30 lar problem.





1 MR. ESTEY: Let me go at it another way:  
2 In the manufacturing industry, is it a common practice or  
3 an uncommon practice to hold safety meetings on the com-  
4 pany's time on the company's premises?

5 MR. ANDERSON: It is quite common, but I  
6 would not say it is general, but it often happens.

7 MR. ESTEY: Mr. Anderson, when you send  
8 your staff out to instruct in safety and encourage them  
9 to use safety which is perhaps a better expression, is  
10 that done in meetings, seminars or forums which are held  
11 in the plant and during working hours?

12 MR. ANDERSON: It is done in the plant  
13 during working hours to reach the individual employees.  
14 The general meetings which we hold, while they are open to  
15 anybody interested, are mostly attended by supervisors,  
16 safety personnel and management. The job instruction,  
17 the meetings that our field staff conduct in general, are  
18 in the plant and in our training sessions; excepting what  
19 work we do in our training centre here in Toronto, all of  
20 our training is done on the job in working hours.

21 MR. ESTEY: I just want to understand that  
22 If I heard you rightly, you say that most of the instruc-  
23 tion or leadership given by your field men, is given to  
24 supervisory personnel.

25 MR. ANDERSON: That is correct, sir.

26 MR. ESTEY: That would be like the foreman  
27 trainers we heard about in the forestry field.

28 MR. ANDERSON: We feel that they are the  
29 key to getting the workers to cooperate safely and, con-  
30 sequently we spend most of our time on them, but we also





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2457

1 spend a lot of time on management and on employees.

2 MR. ESTEY: How do you spend time on the  
3 latter?

4 MR. ANDERSON: On the employees? Through  
5 these on-the-job meetings, the showing of films, talking  
6 about a particular thing like giving a demonstration of  
7 how to avoid injuring your back, demonstrations of the  
8 hazards from fire. We have, in this country, the only  
9 qualified personnel to put on the United States Department  
10 of Labour's demonstrations on the magic of fire, flame  
11 propagation and static electricity, and these we use a  
12 great deal as well.

13 MR. ESTEY: I was wondering how it would  
14 be if that was the case that only 8 per cent think they  
15 learn about safety at scheduled meetings on safety.

16 MR. ANDERSON: I think the answer to this,  
17 Mr. Estey, is that taking the large majority of employers  
18 in the province, there are not probably more than 8 to  
19 10 per cent of them who hold meetings on the job. If  
20 you were to ask the same question of a group of foremen,  
21 I think you would find that many of them have learned a  
22 great deal through meetings.

23 MR. ESTEY: Only 8 to 10 per cent hold  
24 meetings on the job, did you say?

25 MR. ANDERSON: This is a wild guess  
26 because we have no record on it, but in our industry, I  
27 get across my desk every week, I would say, an average  
28 of 12 to 15 reports from the field staff of meetings  
29 that they have held during that week, on the job. Now  
30 this is a very small percentage of the 30,000 employer







1 accounts we have in the province.

2 MR. ESTEY: In the main, you rely upon  
3 the instruction to foremen and supervisors penetrating  
4 down to the men on the job?

5 MR. ANDERSON: Yes, sir.

6 MR. ESTEY: What percentage of your  
7 budget is devoted to posters, signs, bulletins and pam-  
8 phlets?

9 MR. ANDERSON: All of our printing,  
10 posters, pamphlets and all of that type of thing, accounts  
11 for about \$40 thousand out of the budget of \$1,088,000.

12 MR. ESTEY: That seems to be a reasonable  
13 expenditure, judging by the answers to question 9.

14 MR. ANDERSON: We feel so, it is very  
15 widely distributed. As one example, we distribute close  
16 to 400 thousand copies of a holiday pamphlet each year  
17 which goes to most of the employers and their employees.  
18 Well, that goes to over 50 per cent of the employees of  
19 our membership.

20 MR. ESTEY: Over on page 8 you deal with  
21 question number 12, which on the other document is on  
22 page 11. It is in the brief on page 8.

23 MR. OLIVER: Just one comment, Mr. Estey,  
24 before you leave the point about the expenditure. The  
25 I.A.P.A. also puts out an excellent calendar which is  
26 widely used which, in effect, is a poster, but employers  
27 pay in addition for that calendar, so that the cost  
28 would be diminished from the amount of revenue they get  
29 from the employers. That is the point that I am making.

30 MR. ESTEY: That is, it has a calendar





1 at the bottom and the big area above.

2 MR. OLIVER: That is right. I am sorry,  
3 what page?

4 MR. ESTEY: Page 8 on question number 12.  
5 It is page 11 of the Exhibit 37. I am just curious as  
6 to how the percentage of employees who would know about  
7 the Construction Safety Association is so high. Is there  
8 some overlap in your jurisdictions?

9 MR. ANDERSON: There is some overlap, yes,  
10 sir, construction people working on manufacturing jobs  
11 from time to time and also, again I think it is part of  
12 the influence of the Construction Association's television  
13 program.

14 MR. ESTEY: I was curious to know if you  
15 have any pamphlet on which you base your reference to  
16 the International Labour organization's statement.

17 MR. ANDERSON: Yes, sir, I have.

18 MR. ESTEY: That a voluntary system was  
19 the more successful. Do you have a reference you might  
20 give us on that?

21 MR. ANDERSON: That is a quotation from  
22 an address by Marcel Robert. At the time he made it, he  
23 was a director of the safety branch of the International  
24 Labour office and I can supply you with a copy.

25 MR. ESTEY: Was that very long ago?

26 MR. ANDERSON: This was about four years  
27 ago.

28 MR. ESTEY: Thank you very much. One thing  
29 that is unrelated to your brief, but which I would like  
30 to ask you about, while we have the opportunity, we have





1 heard a great deal about construction safety and the new  
2 Act passed in 1961 and revised somewhat in 1963 called  
3 the Construction Safety Act. You have your Industrial  
4 Safety Act which is much older. When I read through the  
5 comparable provisions, there is a startling difference  
6 with regard to the supply and the insistence on wearing  
7 of safety equipment, safety shoes, safety clothing. For  
8 example, Regulation 14 under the Construction Safety Act  
9 says: "No person shall work or be permitted to work where  
10 he might be exposed to foot injury, unless he is wearing  
11 footwear manufactured for the purpose of protecting persons  
12 from such injury." The nearest comparable section in  
13 the regulations under your Act, or the one that applies  
14 to you, is that "No person shall wear open-toed or high  
15 heeled shoes in a factory". And then it says elsewhere  
16 that, "Every employer shall ensure that a person under  
17 his control will wear eye shields and foot safety shoes",  
18 but the wording "be permitted to wear" and "no person  
19 shall wear", is not in your Act. Is that a serious omis-  
20 sion now in your ability to make people wear the proper  
21 safety gear in your manufacturing processes?

22 MR. OLIVER: I would not think so. I  
23 think we have two conditions. One, the hazards may be  
24 different on a construction job than they are in a manu-  
25 facturing establishment. In manufacturing we still believe  
26 that we have to motivate people to work safely and you  
27 can't legislate for it.

28 MR. ESTEY: Well, what does the manufac-  
29 turer do if the man won't wear the eye shield, does he  
30 send him home and take him off the payroll - suspend him?







1 MR. OLIVER: In many cases, if that becomes  
2 necessary.

3 MR. ESTEY: Because you may not permit  
4 him to work without it, under your Act.

5 MR. OLIVER: Provided the hazard exists,  
6 yes.

7 MR. ESTEY: Well, obviously the Act doesn't  
8 apply unless the hazard exists. You have got the hazard,  
9 the man walks up to the machine without the eye shield,  
10 the statute doesn't make it an offence for him to do that  
11 as against him but it does as against you because you  
12 permit it. I want to know, what does the employer do?

13 MR. OLIVER: All the persuasive powers  
14 in his ability and failing that, disciplinary action.

15 MR. ESTEY: All right, but my practical  
16 case is, he has arrived at the machine, he has got the  
17 drill machine going and he doesn't have the eye shield  
18 on, and your only remedy is to fire him, isn't it?

19 MR. OLIVER: No, sir.

20 MR. ESTEY: What is your other remedy?

21 MR. OLIVER: To see that he works with  
22 they eye shield.

23 MR. ESTEY: But he doesn't.

24 MR. OLIVER: You mean for that moment?

25 MR. ESTEY: He is standing there and you  
26 are breaking the law when he is standing there. What do  
27 you do? It is too late for persuasion, it is there.

28 MR. OLIVER: We remove him from the area  
29 and then we use somebody to do the job that will wear the  
30 equipment and then you have to work on the individual to





1 see that he doesn't make the same mistake again.

2 MR. ESTEY: It is not a mistake, he did  
3 it deliberately.

4 MR. OLIVER: I am sorry, sir, I can't  
5 establish that.

6 MR. ESTEY: Well, it is my example.

7 MR. OLIVER: That he deliberately?

8 MR. ESTEY: Well, you mentioned earlier  
9 that all people don't like to wear a hard hat.

10 MR. OLIVER: Right.

11 MR. ESTEY: There are many bare headed  
12 people in the world by habit and they don't like to wear  
13 a hat; now what do you do about it?

14 MR. OLIVER: That is a matter of education.  
15 In manufacturing we have to educate people to work safely.

16 MR. ESTEY: In construction they say that  
17 you shall not go in there without proper equipment.

18 MR. OLIVER: It just means that the edu-  
19 cation in manufacturing may not be as far advanced as it  
20 is in construction. We are not proposing any legislation  
21 on actions of people be enacted.

22 MR. ESTEY: Because you don't find it a  
23 problem?

24 MR. OLIVER: We find it a problem that we  
25 can deal with.

26 MR. ESTEY: Not an insoluble problem.

27 MR. OLIVER: I don't think so, no.

28 MR. RUSSELL: My impression, Mr. Estey,  
29 and it is just an impression, is that where the law does  
30 put the onus on the employee to wear a hard hat or other





1 protective equipment, such as in British Columbia, with  
2 penalties, that the penalties are not usually applied,  
3 that the thing is ineffective anyway. In the first place,  
4 if the employee is breaking a law, somebody, some type of  
5 law officer, let us say, must be there to find him doing  
6 it. So that this type of compulsion, in our view, is not  
7 very effective. The real answer is to sell the man on  
8 the fact that he should be looking after himself.

9 MR. ESTEY: Should we remove the compul-  
10 sion against the employer on that theory?

11 MR. RUSSELL: Well, at times it is embar-  
12 rassing to the employer, to force compulsion on the em-  
13 ployer because the employer sometimes is, in effect, forced  
14 to break the law in order to -

15 MR. ESTEY: Maintain good relations?

16 MR. RUSSELL: Not entirely that.

17 THE COMMISSIONER: He doesn't want more  
18 labour turnover, he doesn't want an argument with the  
19 union, it might just may be because of a hard hat he is  
20 not going to make an issue out of it, unless he disciplines  
21 a lot of other people. I think we have spent enough time  
22 on that, Mr. Estey.

23 MR. ESTEY: I have no further questions,  
24 thank you.

25 MR. RUSSELL: I would like, with your  
26 permission, to refer to part of our earlier submission,  
27 because I would like to comment on some evidence that  
28 was not available to us at the time. This won't take any  
29 more than a few minutes.

30 THE COMMISSIONER: All right.







1 MR. RUSSELL: It really has to bear on  
2 the overall topic of our submission, and that is our  
3 concern that the legislation and possibly administration  
4 of the Act are tending toward a matter of legislation  
5 rather than compensation for the injured workman, as in  
6 the original intent. I want to refer to a report made  
7 to you entitled "Increase in Benefits". There is a  
8 statement here that we feel we cannot let go unchallenged.  
9 It is the first paragraph, the third sentence, and I will  
10 read from there. It says:

11 "Retroactive increases in benefits have  
12 to date been charged to employers and  
13 eventually, therefore, have been borne  
14 by the consumer of goods and services."

15 That is, sir, in our view, pretty loose  
16 talking. Profit, which is necessary for the life of  
17 business develops from the spread between price and costs.  
18 Price is determined in the marketplace by competition,  
19 by competition from not only fellow businesses in the  
20 Province of Ontario but competition from other provinces  
21 in Canada and competition from foreign countries. This  
22 determines price and anything that is done in the Province  
23 of Ontario to increase costs is not necessarily reflected  
24 in the manufacturer's price. He cannot necessarily get  
25 it back, and in many cases, he cannot, and this disturbs  
26 us because it seems to indicate a certain type of think-  
27 ing.

28 I will come back to this paper from which  
29 I read, by the Vice-Chairman of the Workmen's Compensa-  
30 tion Board, in which he also says this:





1 "But Workmen's Compensation was to be  
2 separate, and was to be charged entirely  
3 to the employer, who uses that as a cost  
4 of the operations in his business, so  
5 that when you and I buy a box of corn-  
6 flakes, or a loaf of bread, or a suit,  
7 or anything else - an automobile -  
8 somewhere in that cost is the amount  
9 of money the employer paid for his  
10 Workmen's Compensation assessment -  
11 you can be sure of that."

12 This seems to us, I would say, loose think-  
13 ing in respect of this matter of compensation costs and  
14 the ability of the employer to recover it through the  
15 consumer. That was the first observation, sir.

16 THE COMMISSIONER: I don't know whether  
17 the Workmen's Compensation Board would be a social measure  
18 of a type, but it is different from welfare legislation.  
19 But doesn't the cost of all welfare legislation, pension,  
20 medicare, unemployment insurance in the country, come  
21 from all this income, industry in one form or another,  
22 either in manufacturing or in the mines or in farming,  
23 taking it out of natural resources, but always coming  
24 through the same medium of somebody producing? Isn't  
25 that the source of all the income, and therefore, it is  
26 passed on, but it is, insofar as industry helps to compete  
27 with any outside industry? Now, this cumulative load may  
28 become too heavy.

29 MR. RUSSELL: The thing that people call  
30 profit squeeze, continually happens, and our point is that





1 it does not necessarily follow that as costs go up, all  
2 the manufacturer has to do is increase his price to the  
3 customers.

4 THE COMMISSIONER: I understand it, anyway.  
5 This argument has been presented on a number of occasions  
6 to this Commission.

7 MR. RUSSELL: We want to make our position  
8 clear on it, sir.

9 The other has to do with a letter which I  
10 would like to read to you and of which we are prepared  
11 to file a copy with the names deleted. It is a letter  
12 from the Workmen's Compensation Board dated October 13th,  
13 1966. It says:

14 "Attention: (Mr. So-and-so)  
15 Gentlemen, Claim C6832490, your en-  
16 quiry letter of October 11, 1966 is  
17 acknowledged.  
18 So-and-so" - being the man's name -  
19 "was considered capable of modified  
20 employment on September 6, 1966 and  
21 received full benefits to that date.  
22 He was examined at our offices on  
23 September 1, 1966 and indicated his  
24 intention of convalescing in Italy.  
25 Therefore, following an examination  
26 at our Offices, he was awarded 50%  
27 partial benefits to October 4, 1966  
28 and 25% benefits to December 13, 1966.  
29 He is to contact our Offices on return  
30 to Canada for review of his claim.







1 We trust this information is satisfactory."

2 THE COMMISSIONER: Maybe you could pay  
3 his fare to Italy and be as well off as if he had stayed  
4 here on these compensation allowances.

5 MR. RUSSELL: Well, the Act, as I under-  
6 stand it, provides that the compensation will be the dif-  
7 ference between what he would receive under employment  
8 and his previous rate of employment. In this particular  
9 case, the employer was not notified of the case. The  
10 first notification the employer got was on October 11th.  
11 The Board, apparently, decided on September 1st to let  
12 the man have compensation of 50 per cent and then 25 per  
13 cent thereafter. My opinion is that the employer con-  
14 cerned probably had employment for this man. I don't  
15 know whether the rate of pay would have been --

16 THE COMMISSIONER: Isn't that it? I  
17 follow you now. But supposing he had employment for the  
18 man. The man is receiving 50 per cent, which I understood  
19 from Mr. Kerr in his evidence here, was a sort of rule of  
20 thumb for the time being, after having him off full  
21 allowance. Supposing the employer had him and paid him  
22 100 per cent. He was available for work, he would have  
23 recovered from the Board 50 per cent to October and 25  
24 per cent for the balance.

25 MR. RUSSELL: I presume it would.

26 THE COMMISSIONER: From a financial point  
27 of view the employer was not very concerned once the  
28 Board decided to pay him.

29 MR. RUSSELL: The problem the employer  
30 has, is that he is not notified of the progress of the





1 workman who is being charged to him for compensation. In  
2 this case, the employer was notified a month after the  
3 accident took place. He hadn't a chance to do anything  
4 about it at all.

5 THE COMMISSIONER: Well, the employer,  
6 except in cases of appeal, hasn't anything to say about  
7 the award any more than the man has, unless he appeals it.  
8 I suppose this is a case where the man was going to Italy  
9 anyway and he was on partial disability and said, "Here  
10 is my chance to go" and the employer said he was losing  
11 money.

12 MR. RUSSELL: The employer says that the  
13 accident fund is being milked here.

14 THE COMMISSIONER: To give him a six-week  
15 holiday? I am afraid I am not of any help. We have to  
16 depend on the Board to assess these things as best they  
17 can. It may be from the evidence you have produced, and  
18 others, that one might say that the Board is too easy in  
19 allowing these claims. That is a perfectly valid sub-  
20 mission, as far as I am concerned, but I can't, from an  
21 individual case such as this, particularly this one you  
22 mentioned, ever arrive at a decision that the Board might  
23 have been acting unwisely.

24 MR. RUSSELL: I am just trying to point  
25 out, the fear that we have that the Act is too wide.

26 THE COMMISSIONER: Thank you.

27 MR. RUSSELL: Thank you, sir.

28 MR. ESTEY: Are the Pulp and Paper industry  
29 representatives here yet?

30 Now, before I proceed to call the Board





1 representatives on these topics, is there anybody that we  
2 have overlooked, who may wish to make submissions to the  
3 Commissioner on the items outlined in the notice sent out  
4 ten days ago, Accident Prevention, Enforcement Procedures,  
5 Employers' Incentive Plans, Publicity, Application of  
6 Section 86(6)(a), and safety associations? If there is  
7 nobody who wishes to speak to this, then I understand Mr.  
8 Draper, Mr. Kerr and Mr. MacDonald wish to speak to this.

9 THE COMMISSIONER: For the benefit of  
10 those who may not know you, Mr. Draper, what is your  
11 occupation?

12 MR. DRAPER: Mr. Commissioner, my name is  
13 Draper. I am the Director of Safety Education of the  
14 Workmen's Compensation Board.

15 SAFETY ASSOCIATIONS

16 EDUCATION IN ACCIDENT PREVENTION

17 The Act provides for the formation of  
18 associations by the employers in Schedule I under the  
19 control of the Board for the purpose of education in  
20 accident prevention. The Board itself has formed a  
21 Department of Safety Education under the control of its  
22 Director of Safety Education. Under his direction the  
23 resources and programs of the seven safety associations  
24 are being coordinated to provide increasingly effective  
25 control.

26 FINANCING SAFETY EDUCATION

27 The Board makes grants to the safety  
28 associations charging the required amount to the class  
29 represented by such association as part of its assessment.  
30 The total expenditure in 1965 for all safety associations







1 was \$3,020,000.00 which represents 3.8 per cent of the  
2 assessment dollar. This compares with \$2,592,000.00 in  
3 1964, representing 3.5 per cent and \$1,641,000.00 in  
4 1960, representing 2.9 per cent of the assessment dollar.

5 The Board also works with other safety  
6 groups such as the Canadian Industrial Safety Association,  
7 the Canadian Society of Safety Engineering and the  
8 Metropolitan Citizens' Safety Council. Other departments  
9 of the Government also provide safety education in their  
10 related fields. Schedule II employers, such as the rail-  
11 roads, and the Bell Telephone Company who do not contribute  
12 to the Accident Fund must institute and finance their  
13 own safety programs. Many industries contribute signifi-  
14 cantly to safety education through their in plant pro-  
15 grams and labour also contributes through its participa-  
16 tion on joint safety committees.

17 THE COMMISSIONER: What is the Canadian  
18 Industrial Safety Association?

19 MR. DRAPER: The Canadian Industrial  
20 Safety Association, sir, is a body of men formed who are  
21 interested in safety and who, in many cases, are members  
22 of the seven safety associations of Ontario, or their  
23 counterparts in other provinces, who work together to  
24 attempt to standardize all safety procedures and to assist  
25 each other in their jobs in the name of efficiency and  
26 economy.

27 THE COMMISSIONER: In other words, it is  
28 a national organization seeking to coordinate the safety  
29 rules, regulations or measures?

30 MR. DRAPER: It is not unlike the National





1 Safety Council or the National Safety League, which also  
2 exists in Canada.

3 THE COMMISSIONER: What is the Canadian  
4 Society of Safety Engineering?

5 MR. DRAPER: The Canadian Society of  
6 Safety Engineering has recently been reformed - not re-  
7 formed, but changed to a Canadian society as opposed to  
8 Ontario, and it is composed of engineers engaged in the  
9 safety field, and their membership is basically registered  
10 professional engineers, although there are some non-  
11 professional engineers in the society as well.

12 THE COMMISSIONER: You haven't got the  
13 Safetymen's Association?

14 MR. DRAPER: No, sir.

15 THE COMMISSIONER: Are you acquainted  
16 with the organization?

17 MR. DRAPER: I learned of it on hearing  
18 of their submission of a brief, sir.

19 THE COMMISSIONER: You didn't know about  
20 it previously?

21 MR. DRAPER: No.

22 SAFETY ASSOCIATIONS

23 The seven safety associations are as  
24 follows:

25 Construction Safety Association of Ontario  
26 Electrical Utilities Safety Association  
27 of Ontario

28 Forest Products Accident Prevention  
29 Association

30 Industrial Accident Prevention Associations





1 Mines Accident Prevention Association  
2 Ontario Pulp and Paper Makers' Safety  
3 Association

4 Transportation Safety Association

5 The Mines Accident Prevention Association's  
6 safety education program is directed towards implementa-  
7 tion of the provisions of the Ontario Mining Act. Safety  
8 education services are provided for retail stores by the  
9 Industrial Accident Prevention Associations. The Board  
10 has also developed a working relationship with the Farm  
11 Safety Council of Ontario as a result of the extension  
12 of workmen's compensation benefits to farm employees.

13 THE COMMISSIONER: What is the Farm  
14 Safety Council of Ontario?

15 MR. DRAPER: The Farm Safety Council of  
16 Ontario is a voluntary group made up of people engaged  
17 in the business of agriculture and it is under the direc-  
18 tion of the Department of Agriculture. A grant is made  
19 by the Department of Agriculture to this Association,  
20 which has, on its staff, one person who serves as their  
21 director, but it is basically a voluntary group.

22 EDUCATIONAL PROGRAMS

23 Safety associations use every modern means  
24 to bring safety education to the workmen of Ontario.  
25 According to the type of industry, different approaches  
26 are necessary. In some, such as the Electrical Utilities  
27 Safety Association, direct training of new workers in  
28 safe working practices is provided. In others, group  
29 meetings of workmen are held on the job wherever possible.  
30 Supervisory training services are provided in order that







1 they may promote safe working practices. The associations  
2 also produce films, slides and other visual aids for  
3 safety education purposes.

#### 4 MASS MEDIA

5 The safety associations' message reaches  
6 the workmen in many ways. One of these is the use of  
7 mass media - radio, newspapers, and television.

8 The directors of the Construction Safety  
9 Association and the Industrial Accident Prevention  
10 Associations feel that one of the best ways to reach the  
11 majority of their diverse and scattered work-force is at  
12 home with their families. This has been done through  
13 press, radio, and television messages and it is interest-  
14 ing that their television messages are well known to  
15 most people in Ontario. In many cases, these messages  
16 have been supplied at cost to appropriate authorities  
17 in other provinces who use them for the same reasons.

18 In 1966, Construction Safety Association  
19 budgetted \$475,000 and Industrial Accident Prevention  
20 Associations \$50,000 for mass media safety messages.  
21 The Board and the Associations are continually analyzing  
22 and evaluation the cost effectiveness of mass media as a  
23 teaching device to promote awareness of safety.

#### 24 VOLUNTARY DIRECTORS

25 The policies of the associations are  
26 determined by their membership through their elected  
27 voluntary directors and advisory committees. The direc-  
28 tors and advisory committee members give of their exper-  
29 ience and talents in the promotion of safety education  
30 programs in the interest of employee safety.





1 TRAINING FACILITIES

2 The headquarters of the safety associations  
3 are located in the new Arcade Building in downtown Toronto.  
4 There are fully equipped class rooms and conference rooms  
5 which are used both during the daytime and evenings for  
6 safety instruction. Transportation and accommodation  
7 facilities are excellent in this location.

8 The Industrial Accident Prevention Associa-  
9 tions maintain a new modern training centre in Thorncliffe  
10 Park and provide operating industrial equipment for the  
11 presentation of courses to those employed in a supervisory  
12 capacity in industry.

13 The Electrical Utilities Safety Association  
14 operates a new and complete training facility in Rexdale  
15 where the effective training of linemen is carried out  
16 for the industries and municipalities.

17 SAFETY RESEARCH

18 All of the safety associations conduct  
19 research into the cause of accidents. As an example,  
20 The Forest Products Accident Prevention Association  
21 investigated numerous accidents involving chain saws and  
22 suggested modifications to the manufacturers. This  
23 resulted in a new chain saw design which has helped to  
24 reduce accidents. The development of safety clothing  
25 involving ballistic nylon has also reduced the incidence  
26 of injury to the leg.

27 ONTARIO LABOUR SAFETY COUNCIL

28 The new fifteen-member government-sponsored  
29 Labour Safety Council has been appointed as a research  
30 and advisory body to the Minister of Labour. This Council,





1 equally representing management and organized labour,  
2 will enquire into and make recommendations on, all phases  
3 of safety legislation and administration. In a recent  
4 speech The Honourable H. Leslie Rowntree, Q.C., Ontario  
5 Minister of Labour, explained that under the new arrange-  
6 ment, responsibilities are more clearly defined. The  
7 purpose of the accident prevention associations is safety  
8 education; the purpose of the branches of the Department  
9 of Labour is enforcement of safety legislation; the Labour  
10 Safety Council is a research body to examine the broader  
11 aspects of safety, study inconsistencies, and advise the  
12 Minister on all matters involving the safety of employed  
13 persons.

14           The Ontario Labour Safety Council is  
15 composed of seven representatives from industry all  
16 associated with safety associations and seven executives  
17 from labour organizations such as the Ontario Federation  
18 of Labour, the United Steelworkers of America and the  
19 Provincial Building and Trades Council of Ontario.

20 THE ROLE OF THE BOARD

21           The role of the Board as outlined by The  
22 Honourable H. Leslie Rowntree, Q.C., Minister of Labour,  
23 in a statement to the House in June, 1965, is as follows:

24           In order to provide integration of re-  
25 sources and coordination of programs at the operating  
26 level, The Workmen's Compensation Board will establish  
27 a new Safety Education Department under a highly qualified  
28 Director of Safety Education.

29           This Department will:

30           (a) supply central statistical services







1 relating to accident trends and frequencies  
2 to all agencies involved in the safety  
3 field;

4 (b) review and direct the programs of  
5 the safety associations in the light of  
6 accident trends in order to eliminate  
7 duplication and expand coverage;

8 (c) allocate funds and oversee safety  
9 program budgets;

10 (d) develop new programs, particularly  
11 for areas outside the individual concern  
12 of any one association;

13 (e) coordinate the production of promo-  
14 tional materials for all the associations  
15 and promote the interchange of ideas and  
16 material and technical personnel between  
17 the associations;

18 (f) develop an integrated personnel  
19 administration for the safety associa-  
20 tions, covering salaries, superannuation  
21 and fringe benefits.

22 The Board and the associations are working together to  
23 ensure that these plans are effectively carried out.

24 PUBLIC INFORMATION PROGRAMS

25 Each of the associations through its  
26 safety education programs provides an information service  
27 to the public.

28 The Board's Public Service and Information  
29 Department also provides an information service to the  
30 public concerning the Board and the safety associations.





1 The Board participates in meetings and seminars for  
2 industry, labour and the general public. Our monthly  
3 News Bulletin is widely distributed and provides interest-  
4 ing insights into the operations of the Board and the  
5 safety associations. Recent News Bulletins are featuring  
6 individual industries highlighting their safety education  
7 programs and the work their association is doing to reduce  
8 the toll of industrial accidents in Ontario.

9 ENFORCEMENT IN ACCIDENT PREVENTION

10 THE WORKMEN'S COMPENSATION ACT

11 Section 117 (1) of The Workmen's Compensa-  
12 tion Act provides as follows:

13 "The employers in any of the classes for  
14 the time being included in Schedule 1 may,  
15 with the approval and under the control  
16 of the Board, form themselves into an  
17 association for the purpose of education  
18 in accident prevention."

19 Under this Act seven safety associations  
20 have been formed and the Board's Director of Safety  
21 Education coordinates their programs to ensure that they  
22 achieve maximum effectiveness in the field of education  
23 in accident prevention.

24 The Act also provides under Section 86 (6)  
25 (a) for increased assessment for those employers whose  
26 frequency of compensable accidents and accident cost is  
27 consistently higher than average. The aim of increasing  
28 assessments is to encourage greater interest in safety  
29 education and thus prevent accidents.

30 SAFETY ENFORCEMENT





1                   The Workmen's Compensation Act does not  
2 contain safety regulations or provide for their enforce-  
3 ment. The technical requirements for various constructions,  
4 materials, operating conditions and methods are described  
5 in other legislation. Each act provides for inspection  
6 and enforcement of its provisions by the appropriate  
7 government department or agency, and these agencies employ  
8 the necessary technical experts and inspectors.

9                   The more important of these acts which  
10 affect industrial and public health and safety are as  
11 follows:

- 12                   1. Industrial Safety Act
- 13                   2. Construction Safety Act
- 14                   3. Trench Excavators Protection Act
- 15                   4. Underground Work Regulations under  
16 the Department of Labour Act
- 17                   5. Construction Hoists Act
- 18                   6. Elevators and Lifts Act
- 19                   7. Operating Engineers Act
- 20                   8. Boilers and Pressure Vessels Act

21                   These acts are administered by the Depart-  
22 ment of Labour. The Loggers Safety Act is administered  
23 by the Department of Lands and Forests and the Highway  
24 Traffic Act is administered by the Department of Transport.  
25 The air Pollution Control Act, the Pesticides Act and the  
26 Public Health Act are under the jurisdiction of the  
27 Department of Health. The Energy Act and the Gasoline  
28 Handling Act are the responsibility of the Department  
29 of Energy and Resources Management. Other government  
30 departments also have responsibility for safety inspection







1 such as the Ontario Fire Marshal who inspects for fire  
2 hazards.

3 COOPERATIVE LIAISON

4 The Board, the Department of Labour and  
5 the Ontario Labour Safety Council work together as a  
6 team in an attempt to make Ontario safe in the modern  
7 complex industrial society.

8 THE COMMISSIONER: I suppose in the co-  
9 operative liaison we should include in those there, not  
10 only the Department of Labour but the Department of Mines  
11 and other organizations which are apparently operating  
12 equally effectively.

13 MR. DRAPER: That is correct, sir. The  
14 reference here really relates to those departments coming  
15 under the Minister of Labour or to those areas with which  
16 we are directly concerned under that one department,  
17 namely the Labour Safety Council, the Department of Labour  
18 and the Board.

19 THE COMMISSIONER: The Labour Safety  
20 Council has nothing to do with mines?

21 MR. DRAPER: This is my understanding,  
22 sir. But, as you will recall, there is a gentleman from  
23 the mining section, or Mines Safety --

24 THE COMMISSIONER: Mr. Smith was here, the  
25 Chief Engineer.

26 MR. DRAPER: No, but there was a man who  
27 was connected with Mines Accident Prevention Association  
28 who is on the Labour Safety Council. There is also a  
29 union member from the mining industry on the Labour Safety  
30 Council.





1 THE COMMISSIONER: So it is to be assumed  
2 that they are in a position to make recommendations in  
3 connection with any of these safety measures, administered  
4 under any of the acts.

5 MR. DRAPER: Yes, sir.

6 FIRST-AID

7 PROVISIONS OF THE ACT

8 Section 51 (11) provides as follows:

9 "Employers in industries in which it is  
10 deemed proper may be required by the  
11 Board to maintain as may be directed  
12 by the Board such first-aid appliances  
13 and service as the Board may direct,  
14 and the Board may make such order respect-  
15 ing the expense thereof as may be deemed  
16 just "

17 REGULATIONS

18 Regulations 12 to 21 require that every  
19 employer under the Act provide and maintain in the place  
20 of employment necessary first-aid facilities. The re-  
21 quirements vary according to the number of workmen in  
22 the various places of employment and where there are  
23 more than five workmen employed the Regulations require  
24 that the first-aid facilities be in the charge of an  
25 employee who is the holder of a St. John Ambulance Senior  
26 First-Aid Certificate.

27 Provision is also made for first-aid  
28 facilities for workmen operating vehicles and motive  
29 power units.

30 The Regulations also require that each





1 employer keep a record of injuries to workmen and first-  
2 aid treatment applied. A copy of the Regulations is  
3 attached and I believe it has been distributed.

4 INSPECTION OF FIRST-AID FACILITIES

5 The Board works with many organizations  
6 concerning first-aid and where necessary inspects facili-  
7 ties to ensure that required standards are maintained.  
8 The Board, its Safety Associations, the Department of  
9 Labour's Industrial Safety Branch and Construction Safety  
10 Branch check first-aid facilities during their inspection  
11 and advise the Board where corrective action is needed.  
12 The Department of Transport checks first-aid equipment  
13 on trucks passing through weigh-scales and reports any  
14 inadequacies to the Board. The Board also acts on infor-  
15 mation from labour organizations where first-aid standards  
16 are not met.

17 ST. JOHN AMBULANCE CERTIFICATES

18 The Board's Regulations require that  
19 first-aid attendants hold St. John Ambulance Senior First-  
20 Aid Certificates. The Board recognizes the valuable  
21 contribution made to industry by the St. John Ambulance  
22 in training first-aid attendants and underwrites the  
23 cost of such training.

24 THE COMMISSIONER: Does that conclude the  
25 formal presentation?

26 MR. DRAPER: That concludes my formal  
27 presentation. Mr. MacDonald, the Treasurer, will be  
28 speaking on section 86 (6)(a) of the Act.

29 THE COMMISSIONER: That is the penalty  
30 section?







1 MR. DRAPER: Under the accident section.

2 THE COMMISSIONER: We will adjourn until

3 2:00 o'clock.

4 --- Luncheon Adjournment.

5  
6 MR. ESTEY: Mr. Chairman, we have with  
7 us Dr. Fee and with your permission, I would like to  
8 interrupt the discussion the Board is having, to intro-  
9 duce Dr. Alexander Fee. Mr. Parker, I believe, is with  
10 him of The Canadian Hearing Society. Dr. Fee is a  
11 specialist in matters pertaining to the ear, the auditory  
12 nerve, and can discuss with the Commissioner, questions  
13 of industrial deafness, the question of rehabilitation  
14 and employment of a person suffering from this condition.  
15 Can you tell us your qualifications, Doctor, so we might  
16 get that on the record?

17 DR. FEE: I am an ear, nose and throat  
18 specialist attached to the Toronto Western Hospital. I  
19 have been practicing otology by itself for the past five  
20 years. My chief quarrel with the present set-up, as far  
21 as deafness is concerned, is the fact that there is only  
22 a 30 per cent pension allowed, apparently, for a total  
23 bilateral nerve deafness. Take an individual who has  
24 both of his ears knocked out to the point where he can't  
25 hear and he can't wear a hearing-aid; he is just as badly  
26 off as a person who is totally blind and I understand  
27 that they are allowed 100 per cent pension.

28 It is a question of their communication  
29 being cut off so that they can't get a job usually where  
30 the person has reasonable intelligence and education and





1 is not able to get a job comparable to his education and  
2 must, necessarily, take a job with a fairly low pay and  
3 a job of a medium type.

4 This not only has a very bad effect on  
5 their ability to work, but the whole personality of them  
6 is affected because of this loneliness created by not  
7 being able to communicate with their fellow human beings.  
8 Communication is something that is very necessary to  
9 people and I think that this 30 per cent pension is not  
10 enough.

11 THE COMMISSIONER: While I appreciate  
12 that, we are only interested here in injuries and their  
13 relation to their ability to work. I imagine a change of  
14 that kind would affect this.

15 DR. FEE: I think Mr. Parker, possibly,  
16 is better qualified to discuss the employment situation  
17 because that is his chief job, getting employment for  
18 people who are totally deaf and he knows the question of  
19 what type of work they can do and so on.

20 THE COMMISSIONER: One who is totally  
21 disabled, who suffers total loss from deafness, his  
22 compensation - is it 30 per cent?

23 DR. FEE: That is what I understand. I  
24 think probably some of the members of the Compensation  
25 Board can check that.

26 THE COMMISSIONER: So we can probably  
27 get that from them. How does that compare, have you any  
28 idea, with similar assessments throughout the continent  
29 in other jurisdictions?

30 DR. FEE: I don't know. I thought that





1 had probably been fairly standard. One of the difficulties  
2 has been the difficulty of ascertaining exactly the  
3 amount of loss in some of these people and the question  
4 of whether they might be exaggerating. I think that  
5 these things are being corrected now. We have better  
6 objective methods of getting exact hearing loss without  
7 worrying about the possibility that there may be gross  
8 malingerer.

9                   When it is definitely established by,  
10 perhaps, consultation with two or three Otologists, that  
11 a man has a very severe neuro-sensory loss bilaterally,  
12 and is unable to wear an aid, that he should definitely  
13 have more pension than 30 per cent. On the other hand,  
14 I think that the deafness that is due to acoustic trauma,  
15 over a period of years, working in a noisy place where  
16 he may gradually get a loss over 10 or 15 years, that  
17 person is not so badly off because they have good hearing  
18 in the low tones and they gradually learn to compensate  
19 by lip-reading. That type of patient, I don't think, is  
20 entitled to a large compensation.

21                   This type of case that I am speaking of,  
22 is very rare, mind you. It doesn't happen too often.  
23 I only know perhaps about a dozen cases over a period of  
24 30 years. It is usually just due to a very severe  
25 physical trauma where they have bilateral skull fracture,  
26 a fracture on one side with very severe concussion on  
27 the other. While these cases are rare, I don't think  
28 they should be neglected.

29                   THE COMMISSIONER: When you say a person is  
30 as  
/physically disabled as one with a 100 per cent loss of







1 sight, can you tell us anything about on what you base  
2 that other than what you have said?

3 DR. FEE: How you assess the loss?

4 THE COMMISSIONER: A person with loss  
5 of sight is obviously handicapped and there is not much  
6 question about how serious loss of sight is as far as  
7 finding employment is concerned

8 DR. FEE: They are physically handicapped  
9 but I think Ed Dunlop, who is on the Board of Directors  
10 of a great number of corporations, is able to do a  
11 lot of productive work, but the person who is totally  
12 deaf, his friends won't go near him because he is a  
13 nuisance to them, he can't communicate, an employer doesn't  
14 want him because he is afraid he will have a hard time  
15 giving him instructions and he is going to make mistakes.  
16 I think there is certain types of work which a blind  
17 person can do much better than a deaf person. Certainly  
18 anyone that hears well can quite appreciate what a  
19 terrible thing it is to have your communication practically  
20 cut off.

21 THE COMMISSIONER: Then, Doctor, we heard  
22 from Dr. Bernard yesterday, I think it was, on the matter  
23 of industrial deafness of the other type you mentioned,  
24 that comes from exposure to excessive noise. Have you  
25 any comment to make about that? Actually what he was  
26 suggesting was the advisability of some sort of research  
27 work to establish how much excessive noise was respon-  
28 sible for deafness or particular types of noise.

29 DR. FEE: I think the main factor there  
30 is preventative measures to try and make sure that the





1 people who are in noisy jobs are either protected or else  
2 they have more ways of cutting down the noise and I think  
3 certainly, more research along that line would be helpful.  
4 But on the whole, industrial noise type of deafness is  
5 not quite as serious because it is a very gradual loss  
6 and because it affects only the high tone. Usually, a  
7 person who comes in who has been in a job for 15 years  
8 and you talk to him, he can answer you quite well as  
9 long as he is facing you, because he has learned to fill  
10 in the high tone sounds he can't hear by watching the  
11 lips. A lot of them don't even know they are doing it.  
12 They do have trouble in noisy environments, background  
13 noise will make it difficult for them to hear or, if there  
14 is a large group of people, or the situation where they  
15 are in the other room, but I think that that type of  
16 case has to be judged on its own merits.

17 THE COMMISSIONER: I don't know, we will  
18 hear from the Board but I suppose in those cases they  
19 get no compensation as long as they are working, just as  
20 silicotics get no compensation as long as they are working  
21 or able to work.

22 DR. FEE: They quite often can carry on  
23 pretty well for quite a few years but if they keep on,  
24 exposed to that noise, gradually, over a long period of  
25 time, it will get to the point where they will have  
26 trouble in employment.

27 THE COMMISSIONER: There is such a  
28 thing as industrial deafness or deafness arising from  
29 industrial causes?

30 DR. FEE: Oh, yes, very definitely, but





1 it is not as drastic as these people who have severe  
2 physical trauma with severe bilateral deafness involving  
3 all tones.

4 MR. ESTEY: Doctor, you were good enough  
5 to write us a letter in which you set out some of the  
6 ideas you are now talking about and one of the comments  
7 you made was - and you have expanded on it here today -  
8 I just want to ask you one thing. You say that, first  
9 of all, you equate total deafness to total blindness and  
10 then you say that they are at least equal, but perhaps  
11 total deafness is more serious. I was wondering whether  
12 you could direct us to anything in the United States,  
13 you have dealt with Canada, I think, but any studies in  
14 the United States in this general field which discuss  
15 the question of compensation for total loss of hearing?

16 DR. FEE: I think they are right in the  
17 process now of studying, and I am not just sure what the  
18 present status is. Dr. Loring in the States, I know, has  
19 done a tremendous amount of work and there has been a  
20 lot of research work done on it. I think one of the  
21 problems with this type of deafness that occurs from noise  
22 is that it is not a severe handicap on the surface. You  
23 can go up to the man and talk to him and he is watching  
24 you and he appears to hear quite well. Unless you get  
25 him to close his eyes, you don't realize he is missing  
26 quite a bit. I think, often, in that way they aren't  
27 recognized as having as much trouble as they do. I  
28 certainly think this type of case should be compensated  
29 on its individual merits, how severe the loss is, whether  
30 the involvement is involving the speech tones, how good







1 their speech discrimination is and whether they can get  
2 adequate help with a hearing-aid. Some types can wear  
3 it in quiet surroundings and others can't, depending upon  
4 what part of the auditory apparatus is damaged.

5 MR. ESTEY: This subject came up in an  
6 inquiry out in British Columbia a while ago and a discus-  
7 sion arose as to whether or not occupational deafness is  
8 the result of an accident or should be considered as a  
9 consequence of a disease and the opinion was given to  
10 that Commission, "In my opinion, however, based on the  
11 medical evidence before me, that occupational deafness  
12 is a disease". Under the British Columbia statute they  
13 list traumatic deafness as one of the conditions in which  
14 there is a presumption that it arose by reason of employ-  
15 ment. Do you have any comments on that general subject?

16 DR. FEE: I think it is no more a disease  
17 than any other injury. I think it is an injury rather  
18 than a disease. It is a result of constant noise that  
19 is too loud for the inner ear to tolerate, gradually  
20 damaging the inner ear. What was the last part of the  
21 question?

22 MR. ESTEY: The British Columbia statute,  
23 I think, lists as one of the conditions in which there is  
24 a presumption that it arose out of the accident, the  
25 condition which they describe in their schedule to the Act  
26 as traumatic deafness in any industry where there is  
27 exposure to blasting or other noise capable of producing  
28 injury to the auditory nerve or middle ear. That is the  
29 British Columbia statute.

30 DR. FEE: I think there is a great problem





1 there where there is a family history of deafness. Quite  
2 often a chronic progressive deafness of a nerve type will  
3 start about 30 years of age and if a person happens to  
4 have trauma a while after that, it might be confused. It  
5 might be a chronic progressive nerve deafness not due to  
6 the injury. That has to be determined by checking up  
7 on the history. I don't think you can tell the history  
8 from clinical examination. If the history is positive  
9 and there is deafness in the family, that could be chronic  
10 progressive deafness of a phlegmilial type. If their  
11 family history is negative as far as you can find out,  
12 and he is exposed to sufficient trauma to damage the  
13 inner ear, then you can assume it is due to his employment.

14 MR. ESTEY: That is the only province that  
15 has that presumption in its provisions that I am aware of.  
16 What about the question of the relationship of noise to  
17 ear damage and the resultant deafness wholly or partially?  
18 Is it a question of intensity of the noise vibrations or  
19 is it frequency or is it suddenness of change or what is  
20 it?

21 DR. FEE: I think it is related to the  
22 intensity and the persistency and the frequency. If the  
23 man is exposed to noise and then he is away from it for  
24 a day, it is not as bad, but if he is exposed to it day  
25 after day after day, then he is subject to deafness. Some  
26 people may appear to be subject to more of this different  
27 amount of noise than others and checking up on the drop  
28 at 4,000, apparently the hearing drops at 4,000 first.  
29 If a person is in a noisy industry and is checked periodi-  
30 cally and it is observed that he has a hearing drop at the





1 4,000 frequency, it should be assumed he is susceptible  
2 and he should be removed from it, or strenuous steps  
3 taken to protect the ear.

4 MR. ESTEY: Are there some industries  
5 that employ machines that give off high frequency noises  
6 which you find, in your practice, do cause deafness?

7 DR. FEE: There are. Boiler makers is  
8 an old recognized one but there are a lot of industries  
9 now where there is a lot of noise that is apt to be  
10 traumatic, particularly in the printing industries and  
11 various types of industry where there is an excessive  
12 intensity, around 120 decibels and where the man is  
13 exposed to it over long periods. But it takes 15 years,  
14 quite often, to produce any noticeable deafness in many  
15 of those situations. If it is picked up when it first  
16 starts and the man protects himself, he won't progress  
17 to a handicapping type but it is awfully difficult to  
18 get these men to wear ear plugs for the thing. It makes  
19 it difficult for them to hear what the foreman is saying.  
20 I think it is very important that they do protect them  
21 in some way.

22 MR. ESTEY: There is a plug that goes in  
23 the ear and I see around airports they wear this cap  
24 over the ears, all for the same reason, I suppose.

25 DR. FEE: It is not easy to protect from  
26 loud noise and still enable the patient to hear, although  
27 it can be done to some extent.

28 MR. ESTEY: I am wondering if Mr. Parker,  
29 who is with you, wants to say anything about the effort  
30 to employ people who suffer from partial deafness or







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1 total deafness. I understand, sir, you are with the  
2 Canadian Hearing Society and that you are the Canadian  
3 Executive Director?

4 MR. PARKER: Yes.

5 MR. ESTEY: What is the Canadian Hearing  
6 Society, Mr. Parker?

7 MR. PARKER: The Canadian Hearing Society is an  
8 tion established in 1917, incorporated under  
9 Dominion law, part 2 of the Dominion Companies Act. Our  
10 services, basically, are the finding of employment for  
11 the totally deaf in particular, in the Province of  
12 We are responsible for the placement of graduates from  
13 schools for the deaf in the Province of Ontario and deal  
14 as well, with large numbers of the hard of hearing and  
15 those who may come to Ontario from other provinces or  
16 other countries, looking for work. This is a conti  
17 nuous process, so long as the individual is in need

18 We give a good deal of counselling  
19 various directions with regard to hearing aids.

20 MR. ESTEY: Do you have any contact  
21 the Workmen's Compensation Board for the placement of  
22 people who are suffering from partial deafness?

23 MR. PARKER: On occasion, but I  
24 rarely. Other services we provide are assessment  
25 hearing, hearing evaluation, hearing-aid evaluation and  
26 provision of hearing-aids to children and adults who  
27 might otherwise be neglected. We give out around 800  
28 hearing-aids a year and find about close to 400 jobs  
29 year.

30 MR. ESTEY: What kind of work can you





1 find for a person suffering from deafness, what kind of  
2 work can they do?

3 MR. PARKER: I can't answer that question.  
4 Obviously it is a hypothetical question and I can't answer  
5 it too well, I am sorry. But if you should ask me what  
6 jobs can't the deaf do, I might say an airline stewardess,  
7 a secretary, a nurse, railroad workers in the yard, in a  
8 foundry where there may be overhead cranes or in occupa-  
9 tions where easy means of communication is absolutely  
10 essential - sales and such things as this, but there are  
11 literally thousands of jobs where deaf and hard of hearing  
12 people can work, where easy means of communication is  
13 not absolutely essential.

14 For the most part, the totally deaf, and  
15 now I am speaking of those who use sign language mostly,  
16 or a combination of different methods, we deal mostly  
17 in averages with the deaf as with anyone else, and 99  
18 per cent of them will work with their hands and the  
19 majority of them will work in occupations of a routine  
20 nature, repetitive routine types of work. There are  
21 exceptions; we endeavour to place these people on their  
22 ability and intelligence and motivation. The hard of  
23 hearing, of course, are less restricted. The field of  
24 employment is somewhat more expansive than that of the  
25 deaf, depending on the severity of their deafness and  
26 the age of onset.

27 MR. ESTEY: Do you know if the Board  
28 supplies hearing-aids, the Workmen's Compensation Board,  
29 to people who are suffering this disability?

30 MR. PARKER: I am not sure, sir. I know





1 that the Society deals with many organizations . I am  
2 not certain whether you do provide them through your own  
3 facilities or whether you get them through us, I don't  
4 know.

5 DR. FEE: I think they provide them.

6 MR. ESTEY: Thank you, we can find that  
7 out anyway.

8 Mr. Parker, you mentioned in your brief,  
9 the fact that you support an individual's brief to this  
10 Commission which we have not reached, but I notice that  
11 he refers in it to this 30 per cent award for total loss  
12 of hearing, as Dr. Fee said. This man received, in  
13 addition, he says, 10 per cent for loss of sense of  
14 balance and sense of smell, which affects his sense of  
15 taste. So those three senses are worth 10 per cent. Are  
16 you familiar with this brief?

17 MR. PARKER: Yes.

18 MR. ESTEY: I take it you do support this  
19 man's submissions?

20 MR. PARKER: Well, my understanding of  
21 the submission is based on the fact that he was given a  
22 pension at the time of his accident, at which time he  
23 was earning so many dollars and I believe the basis of  
24 the brief is that he takes exception to the fact that  
25 this has not been increased with the cost of living.

26 MR. ESTEY: That is another matter. Then,  
27 he also goes on to deal with the question of whether or  
28 not 30 per cent for total loss of hearing is adequate.  
29 I should direct you to that, that is the part we are  
30 interested in at the moment. I take it that you endorse







1 his submissions on that count as well, because your  
2 letter does not distinguish that from the rest of the  
3 brief.

4 MR. PARKER: Yes, I would.

5 MR. ESTEY: He says 30 per cent for total  
6 loss of hearing is not a proper award, having regard to  
7 the disability that he suffers from and the lack of  
8 employability. Thank you very much, sir.

9 THE COMMISSIONER: Dr. Fee has not  
10 experience with very many of this particular case we are  
11 considering. I suppose you have not had either, where  
12 there has been a total traumatic loss of hearing.

13 MR. PARKER: In my 17 years with the  
14 Society, Mr. Commissioner, I must admit I have not dealt  
15 with too many, and I don't think that you could assess  
16 the disability of a person who has lost his hearing  
17 the disability of a person who has lost his hearing  
18 after a long period of time.

19 I could give examples, if you wish, of two or three cases.

20 In the case of one, the man who lost his  
21 hearing from accident - I am not sure how it happened, but  
22 he was from Windsor. He was employed as a hotel worker  
23 and after he lost his hearing he retained that position  
24 as a hotel worker and when he came to us for placement  
25 in Toronto, we approved of his former employment. In the  
26 case of another, a mill-wright, a superintendent, who,  
27 after his disability, total neuro-sensory loss with  
28 severe vertigo and tinnitus, dizziness and head noises,  
29 he returned to his former employment after he had had  
30 some rehabilitation done in the form of - well, we got





1 him a truck where he sold sandwiches, pop and cigarettes  
2 to building workers out in Etobicoke, he finally came to  
3 the position where he felt he could go back to his former  
4 employment, which he did, as a mill-wright and I saw one  
5 week's pay where he worked a lot of overtime, Saturday  
6 and Sunday, and this was about ten years ago, of some  
7 \$257.

8 Now this chap carried on where he left off.  
9 He was one of the fortunate ones. He was subsequently  
10 killed in a pit where they were lowering a huge press  
11 into a pit. The machine tilted, something went wrong  
12 with it, it had nothing to do with his hearing, but he  
13 was killed. There are other cases, one in particular  
14 where the chap, there is no doubt about it, could have  
15 been promoted to superintendent level. He is quite an  
16 intelligent man but he will always work at a routine,  
17 repetitive type job. Naturally, he is not in a position  
18 to supervise men or answer the telephone.

19 THE COMMISSIONER: It would have the  
20 effect, in any event, of effectually preventing promotion  
21 wherever they are.

22 MR. PARKER: Definitely, yes. But there  
23 are very few hearing impaired people that I know of, who  
24 are not able to work after the disability, but in the  
25 case of severe bilateral deafness as a result of accident  
26 or other cause, where the side effects are often vertigo  
27 and tinnitus, dizziness and even loss of smell, severe  
28 head noises, the indications here are more on the social  
29 side and the effects of this can be much more damaging  
30 to the individual than any other handicap you can think





1 of, including blindness. I cannot say this in general  
2 terms when you speak of the deaf and the hard of hearing  
3 but this handicap is more of a handicap to the individual  
4 to the individual than any other handicap you can think  
5 of.

6 THE COMMISSIONER: It would not help him  
7 any on the job if he were dizzy and had noises in his  
8 head.

9 MR. PARKER: This, we must be very careful  
10 of. For instance, if the man has severe vertigo, we are  
11 careful not to place him on a machine such as a lathe,  
12 climbing ladders or working from heights. They are liable  
13 to step off a curb and fall down.

14 THE COMMISSIONER: I didn't ask Dr. Fee,  
15 is dizziness associated with a bilateral hearing loss?

16 MR. PARKER: Of this type, yes.

17 THE COMMISSIONER: All right, thanks.

18 MR. PARKER: I knew of one man, a chap  
19 from Windsor, whose tinnitus was so severe that he  
20 finally had to take to drugs. He was subsequently caught  
21 He was caught one day down at the water-front in his  
22 pyjamas and didn't know where he was and yet he was able  
23 to carry on in his better moments, with his job at a hotel.  
24 But apparently tinnitus was so severe it just drove him  
25 out of his mind.

26 MR. ESTEY: In the case of Morton, he  
27 says he received 30 per cent for total deafness. Do you  
28 have occasion to see what partially deaf afflicted are  
29 awarded by way of percentage?

30 MR. PARKER: No, I do not, sir, except to







1 say that in the Department of Veterans' Affairs we do.  
2 after-care work for veterans of certain kinds, and their  
3 pensions are based on aggravations, assuming, I suppose,  
4 that the condition was there before service perhaps  
5 aggravated the condition. I worked in the mines in the  
6 north country back in the 30's and I managed to get under  
7 ground, and at that time it was common knowledge that men  
8 who had worked in the drift on machines, especially a  
9 double-header where you could yell your head off and  
10 couldn't hear anyone speak, with the old timers it was  
11 common knowledge that they had quite a hearing loss, some  
12 of them quite severe as a result of their occupation.  
13 This was common knowledge at that time. I don't know  
14 what the situation is today.

15 MR. ESTEY: We have not heard that that  
16 is so today. Maybe those machines are not used today.

17 MR. PARKER: Maybe not, that was back in  
18 the 30's.

19 MR. ESTEY: There is a suggestion, I think  
20 perhaps I read it, that in the pulp and paper industry,  
21 they have the type of machine which is used to chip the  
22 logs or squeeze the chips out of the fluid, I forget  
23 which, but which emits a high frequency sound which is  
24 damaging to the ears. Do you know anything about that?

25 MR. PARKER: I have not heard of it but  
26 I could understand it, yes. High frequency is the same  
27 as a sharp stream of water, you could actually blow it  
28 through that wall if it was sharp enough, but in such  
29 places as stamp factories, boiler factories, tin can fac-  
30 tories, the noise level there is so severe that you





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2007

1 actually cannot hear yourself speak and over long periods  
2 of time, we have come across the odd case where we sus-  
3 pect such a thing but you just couldn't put your finger  
4 on it.

5 [REDACTED] Are there any regulations  
6 under the Industrial Safety Act, or are there any other  
7 statutes regulating the amount of noise in machines?

8 MR. PARKER: Not that I know of, in this  
9 country.

10 MR. ESTEY: Anywhere else?

11 MR. PARKER: I think in the States they  
12 are quite strict. As far as I know, I think  
13 it is the same in Canada. I don't know what the  
14 results have been. I know of one case where a man  
15 had a hearing test and was found to be deaf.

16 frequency sounds in a certain part of the shop. I don't  
17 know what the result of this suit was but I do know I  
18 read a report that from that time on each employee was  
19 given a hearing test and especially in the noisy occupa-  
20 tions, if they had been there for such a length of time,  
21 and they were transferred to a quieter occupation.

22 MR. ESTEY: Mr. Draper, I am sorry we  
23 had to interrupt you. I don't know whether it is more  
24 convenient or less convenient for the Board to deal with  
25 this topic while we are at it. We have Dr. Powell here,  
26 whom I think is going to deal with certain matters.

27 THE COMMISSIONER: Perhaps we could hear  
28 Dr. Powell.

29 DR. POWELL: Mr. Commissioner, I am Dr.  
30 Powell from the Compensation Board and I have with me Dr.





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2012

Kavanaugh, who is the Chief of the Pensions Department and Dr. Hogarth, who deals with the problems related to industrial deafness, should be asked questions related to this, and I wish to state our stand as far as the Board is concerned with industrial deafness.

#### COVERAGE UNDER THE ACT

Industrial deafness is covered under the Act as an industrial disease peculiar to or characteristic of a particular industrial process, trade or occupation. We prefer to speak of the deafness as not an accident. There may be deafness caused by an accident due to blast and due to fracture, but related to the occupational aspect, it is considered to be an industrial disease rather than an accident.

THE COMMISSIONER: It is not specifically referred to: it just comes within your definition of industrial disease, is that what you mean?

MR. POWELL: Yes, sir.

#### BENEFITS

Where industrial deafness is established, the workman is entitled to necessary medical aid including a hearing aid. Compensation benefits are payable where the workman experiences earning impairment due to his change in employment to leave the noise exposure.

On the basis of criteria established by our medical consultants, pensions for industrial deafness are granted when the workman has been away from hazardous noise for a period of at least six months. The reason for this is that hearing loss due to exposure to noise in industry cannot be accurately assessed without removing







1 the man from the noise factor for this period of time.  
2 During the six-month period away from noise, the hearing  
3 should improve to some degree, thus confirming that the  
4 deafness is, in fact, due to his employment. If the  
5 workman chooses to seek other employment to conserve his  
6 hearing, he is entitled to rehabilitation assistance.

7 PREVENTIVE MEASURES

8 In industry, it is important to recognize  
9 noise hazards early so that a workman may change to a  
10 less noisy environment or use ear protection. The  
11 representatives of industry, the Department of Labour  
12 and Department of Health have developed programs to  
13 prevent deafness by reduction of noise and periodic  
14 audiometric checks.

15 MR. ESTLY: Is this section 1(i) that  
16 you are referring to in the definition of industrial  
17 disease? Your first paragraph, does that refer to section  
18 1(i)?

19 DR. POWELL: Yes. It means any of the  
20 diseases mentioned in schedule 3.

21 THE COMMISSIONER: Dr. Barnard of the  
22 Ontario Medical Association, felt that there was a  
23 research project in connection with this which was  
24 desirable. You do, in connection with your rehabilitation  
25 centre, some research projects. Have you anything on  
26 this?

27 DR. POWELL: Not in relation to hearing  
28 loss, sir. This is done in the United States. Some is  
29 going on as an on-going project here. In Sudbury, at the  
30 moment, an otologist or ear doctor, is vitally interested





1 in this and some of the industrial workings in that area.  
2 Largely, early recognition probably, of deafness is im-  
3 portant so that when it is recognized early, the process  
4 can be stopped or improved, by taking him away from his  
5 occupation. This is a preventive measure.

6 THE COMMISSIONER: And that is what  
7 you are largely concentrating on, apparently?

8 DR. POWELL: Yes.

9 THE COMMISSIONER: What about these cases  
10 of traumatic deafness which is complete, where his con-  
11 dition isn't aided by a hearing aid? Is the allowance  
12 that is given for that complete loss 30 per cent?

13 DR. POWELL: It is 30 per cent. But there  
14 are other factors which are taken into account over and  
15 above this. Dizziness, noises in the ear, those factors  
16 are taken into consideration, and it is still far away  
17 from what Dr. Fee was mentioning. We know from statistical  
18 study those that have suffered this complete deafness,  
19 and those cases are rare, overall deafness.

20 THE COMMISSIONER: Is there anything to  
21 restrict you other than your own regulations?

22 DR. POWELL: In keeping with the studies  
23 of American associations by ear and eye doctors, they  
24 review these ratings. I have a list here of some 40  
25 states, and there are not many over 30 per cent, but  
26 nowhere near 100 per cent. They don't distinguish between  
27 the two, that is total nerve deafness.

28 MR. ESTEY: Why wouldn't the man get  
29 100 per cent?

30 DR. POWELL: Actually, I would be in





1 agreement with you in this area. I am not an ear, nose  
2 and throat man, but I highly respect Dr. Fee's evidence.  
3 I think there is consideration for another look at this.  
4 Dr. Kavanaugh and Dr. Hogarth have knowledge of this,  
5 particularly what is going on in the States. But my  
6 feeling is one of compassion and trying to put myself in  
7 someone else's shoes, and I would say it is a serious  
8 thing.

9 THE COMMISSIONER: Your regulation has  
10 relation to this other type of injury which develops and  
11 I suppose your percentages are based on consideration.

12 DR. POWELL: Yes.

13 DR. KAVANAUGH: I would just like to say,  
14 with regard to this business of percentage for total  
15 deafness - and this is Dr. Hogarth's responsibility - I  
16 think you would have to decide 30 per cent of what? If  
17 you are talking about the British rating, you are talking  
18 about 30 per cent of anatomical impairment, and in Ontario  
19 you are talking about 75 per cent of the average earnings  
20 that man had before he was hurt. It is easy to say 30  
21 per cent, 60 per cent, 100 per cent. We are limited to  
22 the impairment of running capacity, and I don't think we  
23 can come too close to it. But I would say, on this  
24 question of 30 per cent, that the American Medical Association  
25 have issued over the past few years, a rating, and  
26 they distinguish between impaired, permanent disability.  
27 Now, they have set up a group of committees, each committee  
28 to study a particular type of condition, neurological  
29 diseases, back troubles, extremities, ear, nose and throat,  
30 and I think anybody who knows anything about this group







1 realizes the American association have some of the leading  
2 people on these things. Now, then you get to the nervous  
3 system, and they deal with cranial nerves, and they come  
4 up with the figure of 35 per cent for the complete destruc-  
5 tion of cranial nerves. Then there is another group which  
6 deal with total deafness merely from the point of view of  
7 valuation, not complete loss.

8 THE COMMISSIONER: I suppose when you  
9 talk of 35 per cent impairment, they say a man can walk,  
10 he can see, he can use all his bodily functions. If it  
11 is on a straight impairment basis, then perhaps 30 per  
12 cent, 35 per cent may represent it.

13 DR. KAVANAUGH: Yes.

14 THE COMMISSIONER: But isn't the Workmen's  
15 Compensation assessment usually based on the ability of  
16 the workmen to work?

17 DR. KAVANAUGH: Impairment of working  
18 capacity, I agree. The ear, nose and throat people came  
19 up with the same figure, 35 per cent, and the list here  
20 is an estimate to correlate the various jurisdictions in  
21 the States. A lot of them work in weeks, so we have to  
22 take those weeks and transfer them into earnings. We  
23 have done a mathematical correlation, computation, and  
24 some of them are: Alabama, 27 per cent; Arkansas, 21 per  
25 cent; Connecticut, 12 per cent; Delaware, 28 per cent.

26 Now, as I said before, nobody can say that  
27 the impairment of capacity is 45 per cent, and I defy  
28 anyone to do so.

29 THE COMMISSIONER: The army pension is  
30 based on physical disability, isn't it?





1 DR. KAVANAUGH: Yes.

2 THE COMMISSIONER: It is impairment.

3 DR. KAVANAUGH: Yes, anatomical impairment.

4 Ours is an estimate to try to state how much this man  
5 would lose if he were to attempt to find employment. Now,  
6 the 30 per cent is our minimum. A man who was deaf and  
7 had vertigo, he would get an extra 3 per cent or 4 per  
8 cent; if he had constant headaches, he might get 15 per  
9 cent more. Our figure of 30 per cent is fairly well  
10 justified in terms of what other jurisdictions do. Now,  
11 people will say, yes, but maybe in Italy or Britain they  
12 give 100 per cent, but there they are giving 100 per cent  
13 on a set figure, which in Britain is about \$18 a week.

14 This is all I have to say on that.

15 MR. ESTEY: What is the figure for total  
16 blindness, doctor?

17 DR. KAVANAUGH: 100 per cent.

18 MR. ESTEY: For blindness he gets 100 per  
19 cent?

20 DR. KAVANAUGH: Yes.

21 MR. ESTEY: And for total deafness he  
22 gets 30 per cent?

23 DR. KAVANAUGH: I don't believe a man who  
24 is totally deaf is as impaired on the labour market as a  
25 man who is totally blind.

26 MR. ESTEY: You are saying that on the  
27 scale of economic impairment, your figure is roughly right?

28 DR. KAVANAUGH: Yes. I feel satisfied  
29 that this 30 per cent, as compared with the 100 per cent,  
30 is fair and just.





1 MR. ESTEY: I suppose it would also  
2 depend on the man's subjective aptitude to employment.

3 DR. KAVANAUGH: Yes.

4 MR. ESTEY: If a policeman lost his  
5 hearing, he couldn't adapt himself to anything else. I  
6 suppose that is a factor in the Board assessing what he  
7 would get?

8 DR. KAVANAUGH: Yes. We do have this,  
9 that where we consider it more equitable, we make the  
10 award accordingly. Where a man's livelihood depends on  
11 his ability to hear - can you give me an example?

12 MR. ESTEY: A switchboard operator.

13 DR. KAVANAUGH: That is not quite so  
14 skilled a job. I am thinking of a concert pianist. Now,  
15 the business of noise-induced deafness, I think Dr.  
16 Hogarth has something to say on that, but I just wanted  
17 to make that pertinent point about the 30 per cent scale.

18 MR. ESTEY: I think you have.

19 THE COMMISSIONER: The regulations under  
20 which you operate, you cannot go beyond that; is that  
21 right?

22 DR. KAVANAUGH: We can, under certain  
23 circumstances, but we would not like to make a habit of  
24 it. A man may say, "My deafness depresses me," and  
25 another man says, "It bothers me but it doesn't depress  
26 me". I don't think there should be any difference there.

27 THE COMMISSIONER: I can understand why  
28 you don't want to put it into a schedule by reason of  
29 the fact that the situation isn't always the same, but  
30 you are talking generally about occupational deafness,







1 and here is a situation that is apparently rare, where a  
2 man has complete traumatic deafness which prevents him  
3 from getting promotion, prevents him from getting a job  
4 except perhaps a labourer's job where he doesn't have to  
5 hear. There isn't any way of separating that thing from  
6 the general class you are dealing with.

7 DR. KAVANAUGH: We had a case where a man  
8 was training to be a draftsman. I don't think that is a  
9 very menial task. If we do get a situation where the man  
10 has other defects, including possibly a poor education,  
11 then I think we would have to consider some form of  
12 supplemental compensation.

13 MR. ESTEY: That is somewhere in the 40's.  
14 I have read that in the Act, but I can't find it.

15 DR. KAVANAUGH: It is page 21:

16 "Where the Board deems it more equitable,  
17 the Board may award compensation for per-  
18 manent disability having regard to the  
19 difference between the average weekly  
20 earnings of the workman before the accident  
21 and the average amount that he is earning  
22 or is able to earn in some suitable occu-  
23 pation after the accident."

24 This is the part of the Act we would use in this case.

25 MR. ESTEY: In British Columbia, they  
26 add the presumption to traumatic deafness. I suppose  
27 this depends on whether you regard this as a disease.

28 DR. KAVANAUGH: I think we are into a  
29 line which I think would be better answered by Dr.  
30 Hogarth. I know this was said to you recently by the  
permanent disability group of the Canadian Board, and I





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2507

1 think Dr. Hogarth may corroborate this later. They felt  
2 there was no specific difference between a traumatic  
3 deafness in terms of earning capacity and other defects,  
4 and they don't recommend that we make an allowance. Some  
5 make a difference for traumatic deafness and other defects,  
6 but we haven't done that.

7 [REDACTED] DR: There appears to have  
8 come a change in the British Columbia law there. In the  
9 early period, it was occupational deafness, and then in  
10 their regulations, [REDACTED] in 1954, they  
11 put in traumatic deafness in industry or process where  
12 there is exposure to blasting, and so on. Is there any  
13 distinction between these two?

14 DR. HOGARTH: Yes, there is, sir, there  
15 certainly is in Ontario. If the deafness arises suddenly  
16 say as a result of a single blast or a blow and he has  
17 had an accident, compensation is treated accordingly. If  
18 it is [REDACTED] [REDACTED] there  
19 is a wage loss.

20 THE COMMISSIONER: That accounts for the  
21 difference in the schedule in British Columbia?

22 [REDACTED] DR: Yes.

23 THE COMMISSIONER: On page 147 of the  
24 British Columbia legislation, there is occupational  
25 deafness in 1954. This was done by statute, and the  
26 regulations of the Board were added; traumatic deafness  
27 comes within that. It is your opinion that without  
28 inserting these, there are presumptions that they are  
29 given equal consideration in our Act.

30 DR. HOGARTH: Yes, sir.





1  
2 what you say, that in the case of occupational deafness,  
3 no pension is payable except under the circumstances  
4 mentioned in the Act. It has been given by Dr.  
5 Powell, that as long as he is able to work, there is no  
6 allowance made for any increasing deafness.

7 DR. HOGARTH: That is right, sir. It is  
8 my understanding that the section of the Act, under which  
9 it is covered, precludes this. There must be an earnings  
10 loss before an industrial disease can be considered to  
11 exist.

12 MR. ESTEY: If a man gets hit on the head  
13 and loses his hearing, he gets paid something whether or  
14 not there has been a loss of earnings.

15  
16  
17 able?

18 DR. HOGARTH: Yes. They don't learn very  
19 well after they lose their hearing. I think that is what  
20 Dr. Kavanaugh's point was.

21  
22 man working on the railway, the engine is deaf. He can't  
23 read lips; the loudspeaker doesn't have any.

24 DR. HOGARTH: If he were working on a  
25 railroad the only way he would get deaf is by reason of  
26 an accident.

27 MR. ESTEY: Then he would be all right.

28 DR. HOGARTH: Yes.

29 MR. ESTEY: He wouldn't get it inside  
30 the engine?







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2509

1 DR. HOGARTH: We have never had a claim.

2 No engineer has said that. We have had 542 claims for  
3 noise deafness since the first one came in in 1950. We  
4 have been able to allow 283 of these.

5 THE COMMISSIONER: Since 1950?

6 DR. HOGARTH: Yes.

7 THE COMMISSIONER: And you have allowed  
8 how many?

9 DR. HOGARTH: 283. Aside from retirement,  
10 there have been 5 of these gentlemen change their occupa-  
11 tion, only 5. As far as the others go, we have not any  
12 knowledge of wage loss or being precluded from employment  
13 or precluded from promotion. I am dealing with the  
14 occupational loss, the gradual business. I am not speak-  
15 ing of the traumatic group where the situation may be  
16 different.

17 THE COMMISSIONER: These refer to claims  
18 where the people are on the jobs and say they don't hear  
19 as well as the others.

20 DR. HOGARTH: Yes.

21 THE COMMISSIONER: The others you referred  
22 to are people who are still working.

23 DR. HOGARTH: Either that or they didn't  
24 file a claim until they retired, where somebody said,  
25 "You had better get in touch with the Board now". About  
26 a third of our claims arise when people retire.

27 THE COMMISSIONER: I suppose increasing  
28 deafness is fairly common as people get older.

29 DR. HOGARTH: Yes. There is a formula  
30 for deducting for what we expect in increasing deafness





1 in increasing years. It is widely used in the United  
2 States and we have adopted it because we think it is a  
3 good one.

4 MR. ESTEY: A musician would be going  
5 deaf faster because of age, rather than someone like me.

6 DR. HOGARTH: I don't think so, because  
7 if you use any sense organ the longer it lasts. We have  
8 been able to distinguish between the rate at which women  
9 get deaf and men, but we have no relationship between one  
10 occupation and another. The women don't get deaf the way  
11 the men do.

12 MR. ESTEY: Perhaps we shouldn't dwell  
13 on this too long. Your policy is very logical, but that  
14 doesn't say it is right. If the condition develops under  
15 116, then the test is wage loss; if it develops from a  
16 traumatic accident, then the test is loss of function,  
17 whether or not there is any economic loss. What if the  
18 man retires?

19 DR. HOGARTH: Well, he is making less  
20 money before he retires, and a very large number of these  
21 people say in interview, that they had planned to get some  
22 other work, they are not in the open labour market and  
23 they are now at a disadvantage.

24 MR. ESTEY: Well, that is the basis for  
25 it anyway.

26 One last question, Doctor. The man who  
27 gradually becomes hard of hearing, or the man who loses  
28 some of his hearing because of an event, obviously that  
29 gentleman is less employable than someone else. It might  
30 be that he doesn't have the resourcefulness to go to





1 another branch of economic activity. What do you say  
2 about that?

3 DR. HOGARTH: Well, how do you measure it?

4 THE COMMISSIONER: I suppose you measure  
5 then all, really, on a reasonable physical ability to  
6 work, except for this special section you have produced.

7 DR. HOGARTH: I think we should steer  
8 away from the hypothetical 24-year old labourer, and  
9 consider other individuals.

10 THE COMMISSIONER: What about Mr. Estey's  
11 question? How do you consider the fact that he would  
12 otherwise get promotion that he couldn't get now?

13 DR. HOGARTH: I don't think we can, under  
14 the Act.

15 DR. KAVANAUGH: This is a difficulty.  
16 The man who says, "If I hadn't been hurt years ago, I  
17 would be making 25 thousand now, and I am not, I am only  
18 making 10 thousand." I think, quite rightly, you cannot  
19 deal with what he might have been earning.

20 MR. ESTEY: I wasn't advancing that man's  
21 cause, I was advancing the cause of the man whose natural  
22 aptitudes are narrow and his hearing is required for that  
23 aptitude and he loses it.

24 DR. KAVANAUGH: We are dealing with the  
25 man who has no aptitude for anything but bull work and  
26 who lives miles north of our area. We would supplement  
27 that, and we would increase the rehabilitation.

28 MR. ESTEY: I read, in your submission,  
29 that there is a six-month period where you release the  
30 man from the circumstances which have brought on the







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2512

1 condition to enable him to bounce back to recovery. What  
2 does he get during that period?

3 DR. HOGARTH: Nothing.

4 MR. ESTEY: What if he earns less?

5 DR. HOGARTH: If the man wants to claim  
6 that his earnings were down and he ought to be compensated,  
7 we would recommend temporary partial difference payment  
8 during that trial period. If there were hardship, if  
9 the man asked for it, we would recommend it.

10 MR. ESTEY: The British Columbia defini-  
11 tion bothers me. Perhaps you know something about it,  
12 before we leave it. It is this traumatic deafness  
13 which is caused by a blow as in the British Columbia  
14 legislation.

15 DR. HOGARTH: It is deafness caused by  
16 a force. It could be a blow, it could be a jet from the air,  
17 could be a loud noise, it could be a jet from the air.

18 MR. ESTEY: If a loud noise goes on for  
19 years and deafness comes on, is that traumatic?

20 DR. HOGARTH: No.

21 MR. ESTEY: But if there was a blow on  
22 the head and there was deafness, you would call that  
23 traumatic deafness?

24 DR. HOGARTH: I would, yes.

25 MR. ESTEY: What is the general opinion?

26 DR. HOGARTH: I think that is the general  
27 opinion. About twice a year I run into this problem  
28 about whether it is a constant disease or whether it is  
29 an accident. I have recommended on one occasion that we  
30 treat as an accident a loud noise that went on for 20





1 minutes.

2 MR. ESTEY: But not for 20 years?

3 DR. HOGARTH: No. That is an occupational  
4 disease.

5 MR. ESTEY: One last thing, you will be  
6 glad to know, which intrigues me. Why is there no regu-  
7 lation which we can find, as to the noise which you can  
8 create in industry, in Ontario?

9 DR. HOGARTH: I have heard of this in  
10 the United States. There are some regulations in Califor-  
11 nia. These were developed after some very controversial  
12 hearings before the State Senate. The levels were such  
13 that DelMonte canneries would have to stop work, despite  
14 the fact that over some period they were not able to get  
15 their noise level down to where <sup>the</sup> /state would allow them  
16 to run the cannery.

17 MR. ESTEY: What about the power to get  
18 them to wear ear shrouds?

19 DR. HOGARTH: They have that power, but  
20 they say that if the noise level is over so many decibels,  
21 they cannot continue to operate.

22 MR. ESTEY: Do we have that in Ontario?

23 DR. HOGARTH: No. There is an order  
24 where the inspector may warn. That is under the Regula-  
25 tions Act.

26 THE COMMISSIONER: Thank you, gentlemen.

27 MR. ESTEY: Mr. Commissioner, we revert  
28 to matters arising out of accident prevention. We have  
29 heard from Mr. Draper. I don't know whether he is  
30 finished or not.





1 MR. DRAPER: I have finished my presenta-  
2 tion, sir.

3 THE COMMISSIONER: Before we start with  
4 Mr. MacDonald, we will have a recess for five minutes.

5 ---Short recess.  
6

7 MR. MACDONALD: Mr. Commissioner, on the  
8 subject of Experience Rating or Incentive Rating -

9 THE COMMISSIONER: You are the Treasurer  
10 of the Workmen's Compensation Board, in case anyone does  
11 not know?

12 MR. MacDONALD: Yes.

13 MR. ESTEY: On the question of Experience  
14 Rating or the Merit System.

15 MR. MacDONALD: MERIT RATING

16 Section 99 (3) of the Workmen's Compensation  
17 Act reads as follows:

18 "A system of merit rating may, if deemed  
19 proper, be applied."

20 THE COMMISSIONER: So I don't have to  
21 take this down, it is included in Mr. Justice Roach's  
22 report, isn't it?

23 MR. MacDONALD: Yes.

24 THE COMMISSIONER: Then you can go a little  
25 faster, maybe. The Act, as originally passed, didn't  
26 provide for any merit system but 98 (3) was added to the  
27 Act in 1917. The experience of the Board over the years  
28 has been as follows: - now you are starting in 1917, are  
29 you?

30 MR. MacDONALD: No, sir, I am coming to







1 the period following that report of Mr. Justice Roach.

2 THE COMMISSIONER: Then, let us go on  
3 from there.

4 "From 1917 to 1920 inclusive a merit-rating  
5 system was applied yearly, that is to say,  
6 it applied in one year based on the accident  
7 experience of the previous year. This  
8 was unsatisfactory.

9 In October 1922, the Board concluded that  
10 one year's accident experience was an  
11 unfair basis, and it decided to apply it  
12 on the accident experience over a three-  
13 year period. The plan provided for a  
14 refund for favourable accident experience  
15 and the imposition of an additional  
16 assessment for a bad one. That system  
17 was applied in October 1924 on the accident  
18 experience of the years 1921, 1922 and  
19 1923.

20 That system was varied for the three-year  
21 period 1924, 1925 and 1926 by eliminating  
22 the penalty or demerit feature, and,  
23 instead of making refunds, making deduc-  
24 tions from the assessments."

25 Now, where are you going to start?

26 MR. MacDONALD: Basically, all we say  
27 about the older situation was that those previous attempts  
28 failed mainly because the plans were actually unsound.

29 THE COMMISSIONER: Well, I will go on  
30 through and finish them up and we will get the background:





1 "In each of the years 1929 to 1932  
2 inclusive, a merit-rating system consist-  
3 ing of such deductions, and based on the  
4 accident experience in the first three  
5 of the immediately preceding four years,  
6 was applied.

7 In 1932, due to dissatisfaction expressed  
8 by employers, the merit-rating system  
9 was discontinued and in that year the  
10 Legislature amended the Act by deleting  
11 what was then section 93 (3). That del-  
12 eted section, however, was restored to  
13 the Act in 1933 and is now section 96(3).

14 In 1934, merit rating was again applied  
15 to two three-year periods, viz., 1929-30-  
16 31 and 1930-31-32, by deduction from the  
17 1934 assessment.

18 In 1935, merit rating was applied to the  
19 years 1931, 1932 and 1933 by deduction  
20 from the 1935 assessment.

21 In 1936 the merit rating was again dis-  
22 continued. In each of the years 1937  
23 and 1938 a preferential system was applied  
24 but it was abandoned in May 1938, and  
25 since then no merit-rating system has  
26 been in effect."

27 All right, is that where you start?

28 MR. MacDONALD: That is where I start.

29 THE COMMISSIONER: There has been none

30 since this report, I take it?





1 MR. MacDONALD: Not until the time I am  
2 going to refer to now, sir.

3 HISTORY

4 During the years 1950, 1951 and 1952, the  
5 Board was studying various methods of applying a system  
6 of experience rating to the employers under Schedule 1  
7 of the Act. Meetings were held with certain trade associa-  
8 tions and interested employer groups. Previous attempts  
9 to apply experience rating in Ontario had failed, mainly  
10 because the Plans were not actuarially sound. Other plans  
11 considered involved a loading of the assessment rate for  
12 all employers, with subsequent refunds to certain employers.  
13 These were rejected as being unfair to employers as a  
14 whole.

15 THE COMMISSIONER: I suppose if you are  
16 going to allow an incentive by deduction to some employers,  
17 then somebody has got to carry the load.

18 MR. MacDONALD: You only have two choices  
19 there. You can make the refunds exactly equal to the  
20 charges or you can load the basic rate and refund part of  
21 it. These are the two choices you have.

22 MR. ESTEY: Say that again?

23 MR. MacDONALD: You either make the charges  
24 that you give certain employers equal the ones you give  
25 others or you add a basic loading to your total rate and  
26 refund part of it, retain part of it.

27 DEVELOPMENT OF CURRENT PLAN

28 In 1952, an Experience Rating Plan was  
29 developed with the assistance of the Compensation Committee  
30 of the Canadian Manufacturers' Association and an







1 independent consulting actuary. The Plan allowed a 25  
2 per cent departure from full collective liability and  
3 was made effective in 7 rate number classifications.  
4 These classifications were selected and polled by the  
5 C.M.A. and the employers concerned voted to adopt the  
6 Plan for a three year trial period. The first experience  
7 rating adjustments, involving 238 firms, were issued in  
8 1953 and based on their experience over the three year  
9 period 1950, 1951, and 1952.

10 THE COMMISSIONER: I just want to under-  
11 stand this. Prior to 1952 there was no classification,  
12 is that right? It was all those under schedule 1?

13 MR. MacDONALD: There has always been  
14 separate classifications. The point we are making here  
15 is that we had 100 different classifications in  
16 which to apply the experience rating experiment that we  
17 were going to make. So we selected seven out of the 100  
18 odd classifications that existed at that time, to make  
19 this experiment.

20 THE COMMISSIONER: I may be a little  
21 stupid about this. I don't just understand you yet.  
22 Prior to 1952 you had classes, you had a number of classes.

23 MR. MacDONALD: We had classes and we  
24 had rate classifications within classes.

25 THE COMMISSIONER: And the rates were not  
26 the same for all classes?

27 MR. MacDONALD: No, sir, they varied.

28 THE COMMISSIONER: Wasn't that based on  
29 an experience rating?

30 MR. MacDONALD: That was based on an





1 experience rating for the whole industry, not for an  
2 individual firm within an industry.

3 THE COMMISSIONER: In a class.

4 MR. MacDONALD: In a class.

5 THE COMMISSIONER: Then what change came  
6 in 1952?

7 MR. MacDONALD: In 1952 we applied this  
8 experiment plan which was exposed to the ordinary proce-  
9 dure which took place for the total industry.

10 THE COMMISSIONER: And what difference  
11 did that make? Was that in order to give back people,  
12 with good experience within a class, some refund?

13 MR. MacDONALD: Yes, sir, this plan  
14 allowed, as we said here, a 25 per cent deviation from  
15 full, collective liability, allowed refunds to good  
16 employers and charges to employers with a poor accident  
17 record.

18 THE COMMISSIONER: I see.

19 MR. MacDONALD: At the end of the three  
20 year trial period, these same rate number classifications  
21 were repolled by the Board and again voted to continue  
22 with the Plan. At the same time, it was decided that  
23 experience rating could be extended to any rate number  
24 where an official request was received through a recog-  
25 nized trade association or group. All eligible firms  
26 within the rate number would be polled, and if the re-  
27 quired percentage of those eligible firms voted in favour,  
28 the plan would be put into effect. To be eligible for  
29 experience rating, a firm must have an assessable payroll  
30 of at least \$40,000.00 and have been assessed at least





1 \$500.00 in each of the three years immediately preceding  
2 the poll.

3 POLLING REGULATIONS

4 When a rate number classification is  
5 polled, at least 51 per cent of the eligible firms must  
6 reply and of those replying at least 66 2/3 per cent  
7 must vote in favour before experience rating is made  
8 effective in the classification. When experience rating  
9 becomes effective in a rate number, it applies to all  
10 eligible firms regardless of whether they voted in favour,  
11 not in favour, or failed to cast a ballot.

12 THE COMMISSIONER: Was this included in  
13 regulations to this effect that simply this was the rule  
14 laid down by the Board?

15 MR. MacDONALD: They are not exactly  
16 regulations but we have a booklet describing our proce-  
17 dures which is part of an exhibit you already have.

18 PROCEDURE

19 Experience rating is superimposed on our  
20 normal rating procedure and is a means of recognizing  
21 to some extent high or low cost experience of individual  
22 firms within a rate number classification. Under the  
23 Plan we compare the three year average cost rate of  
24 each eligible firm individually with the three year  
25 average cost rate of all eligible firms combined. If  
26 the firm's average cost rate is lower than the group  
27 average, a merit credit will result, and if higher, a  
28 demerit charge is made. The merit credit or demerit  
29 charge is 25 per cent of the difference between the firm  
30 cost rate and the group cost rate. The result of that







1 calculation is then applied to the actual payroll of the  
2 firm to produce the dollar amount of merit credit or  
3 demerit charge involved.

4 THE COMMISSIONER: You compare the three-  
5 year average cost rate of a firm individually with the  
6 three-year average cost rate of all eligible firms and  
7 if it is below the average, does it get 25 per cent?

8 MR. MacDONALD: It gets 25 per cent of  
9 the difference in the two rates, sir, applied to its  
10 last year's payroll.

11 MR. ESTEY: Last year's?

12 MR. MacDONALD: The payroll for the last  
13 three years under review.

14 THE COMMISSIONER: It just gets 25 per  
15 cent of the difference?

16 MR. MacDONALD: Yes, sir.

17 THE COMMISSIONER: I see.

18 MR. MacDONALD: 50 PER CENT PLAN

19 A similar Plan involving 50 per cent de-  
20 parture from full collective liability was developed in  
21 1960 to satisfy complaints from some quarters that demerit  
22 charges under the 25 per cent Plan were not serious  
23 enough to cause some employers to change their attitude  
24 toward safety and force them to develop an effective  
25 accident prevention program. Rules governing the  
26 application of the 50 per cent plan are the same as those  
27 for the 25 per cent Plan.

28 MATHEMATICAL BASIS FOR PLANS

29 The Plans are so devised mathematically  
30 that the merit credits paid to firms with less cost





1 experience are offset by demerit charges to other firms  
2 within the same classification, or the plusses equal the  
3 minuses and our rate number balances are not affected by  
4 more than one-quarter of 1 per cent. Of the 107 rate  
5 number classifications under Schedule 1 of the Act, 28  
6 are presently operating under the 25 per cent Plan and 3  
7 under the 50 per cent Plan. These 31 classifications  
8 cover industry in Ontario with a payroll of \$2,933,000,000.  
9 Charges and refunds in 1965 each totalled approximately  
10 \$1,268,000.00.

11 DEGREE OF INCENTIVE TO IMPROVE ACCIDENT RECORDS

12 Each of the Plans has operated successfully  
13 over the years and, if more serious demerit charges seem  
14 necessary, or if larger credits seem necessary, this  
15 could be achieved by extending the degree of departure  
16 from full collective liability.

17 THE COMMISSIONER: I have gathered from  
18 the previous evidence that no such plan was in existence  
19 here at all. It appears that almost 30 per cent of your  
20 companies are under some such plan.

21 MR. MacDONALD: Yes, and I might comment  
22 that the 50 per cent plan provides for a greater refund  
23 or charge than the other plans which have been advocated.

24 THE COMMISSIONER: How about a company -  
25 we come back to this small wrecking company in Kingston,  
26 I think it is, from time to time - I suppose. How do they  
27 vote, do they vote by their payrolls when you get the  
28 percentage that they have, that 51 per cent have to vote  
29 and 66 and 2/3 per cent have to approve? Is that of the  
30 payroll or is that of the members in the classification?





1 MR. MacDONALD: The polling procedures to  
2 date have provided for a vote per company regardless of  
3 the size of the payroll.

4 THE COMMISSIONER: I see. So, in any  
5 event the small company would have just as big a vote as  
6 the large company?

7 MR. MacDONALD: That is correct, sir,  
8 remembering that the minimum size must be \$40 thousand  
9 payroll per year.

10 THE COMMISSIONER: That is not very much,  
11 is it, these days?

12 MR. MacDONALD: No, sir.

13 MR. GUTHRIE: And they have no vote if  
14 the payroll is below that figure?

15 MR. MacDONALD: And they don't participate  
16 in the plan once it is put into effect.

17 MR. ESTEY: They don't count in the 51  
18 per cent either?

19 MR. MacDONALD: It has been determined  
20 that the small firms really need the benefit of collective  
21 liability rather than the slight benefit they might get  
22 from experience rating.

23 THE COMMISSIONER: How would it matter to  
24 them, one way or the other? As far as the person claim-  
25 ing compensation is concerned - well, I suppose that is  
26 right under experience rating, a small company might get  
27 one serious accident which might put their rates sky high.

28 MR. MacDONALD: And keep it there for  
29 three years too.

30 THE COMMISSIONER: So they are better off







1 with the collective liability. I see.

2 MR. MacDONALD: Yes.

3 THE COMMISSIONER: That is interesting  
4 too. Any questions, Mr. Estey?

5 MR. ESTEY: First of all, we have heard a  
6 great deal about the Alberta scheme and while the statutes  
7 read almost precisely the same way and we have not heard  
8 your plan before, what is the Alberta demerit and merit  
9 plan, do you know?

10 MR. MacDONALD: We can present for the  
11 Royal Commission a comparison of their plan and the two  
12 plans we have, 25 per cent and 50 per cent, as an Exhibit.  
13 The facts are that there is not a great deal of difference  
14 in the 50 per cent plan, for instance, and their plan.  
15 All we are really talking about is the degree of incentive  
16 necessary to improve your record.

17 MR. ESTEY: And still make the fund actu-  
18 arily sound.

19 MR. MacDONALD: Yes, this is right. We  
20 have chosen to do ours in such a way that the plusses  
21 exactly equal the minuses. Theirs is not exactly like  
22 that.

23 THE COMMISSIONER: That is one of the  
24 things yesterday, the emphasis was on the desirability of  
25 the incentive plan as a means of cutting down compensation,  
26 cutting down accidents. I suppose you have no way of  
27 comparing those that operate under the incentive plan with  
28 those that don't, as far as reduction of accidents over  
29 the period is concerned?

30 MR. MacDONALD: The problem, sir, is that





1 during any periods that you might want to look at, there  
2 have been so many other changes made in the base on which  
3 accidents are allowed -

4 THE COMMISSIONER: I was just thinking,  
5 for instance, the mining accidents and the change in  
6 silicosis has appeared in that. That is going to occur  
7 due to the regulations without regard to whether they are  
8 under the incentive plan or whether they are not?

9 MR. MacDONALD: In the mining industry,  
10 in their situation, they have been polled and certain  
11 classifications within mining do have experience ratings  
12 but in the cases where they do, silicosis as such has  
13 been excluded because it is a separate assessment and in  
14 a separate classification.

15 THE COMMISSIONER: I see. I see from  
16 Exhibit 17 that under the Alberta plan there is no provi-  
17 sion made for a poll of the employers to be affected.

18 MR. MacDONALD: In their case they  
19 impose it.

20 MR. ESTEY: And once it is imposed then  
21 it becomes automatic in that you get your rebate if your  
22 record warrants it or you pay extra if your record  
23 warrants it and I see the maximum is 25 per cent of the  
24 actual assessment which parallels yours based on 1 per  
25 cent increments of the ratio of cost to assessment - less  
26 than 75 per cent to a maximum of 25 per cent, so on that  
27 basis they are more or less alike.

28 MR. MacDONALD: They are proceeding on  
29 a different basis than we are and I think we would get  
30 into quite a complicated discussion if I tried to tell





1 you the difference. I think the exhibits could show you  
2 the answers.

3 MR. ESTEY: I must follow that. And there  
4 is only one other question about the Alberta scheme which  
5 occurs to me at this time, and that is that the Board,  
6 notwithstanding the fact the plan is mandatory and auto-  
7 matic, the Board may still refuse to allow a merit rebate  
8 in favour of anybody who has not complied with Board  
9 regulations and is not carrying on the programs of the  
10 Board to the satisfaction of the Board. Do you have  
11 that safety valve in Ontario too?

12 MR. MacDONALD: We don't have that  
13 provision in Ontario, no.

14 THE COMMISSIONER: Yours is wholly auto-  
15 matic?

16 MR. MacDONALD: Yes, sir.

17 THE COMMISSIONER: If the man has a  
18 reduction, he is entitled to the reduction without regard  
19 to whether he has observed the regulations or whether he  
20 hasn't or, I mean to say, in the same way or vice versa.

21 MR. MacDONALD: Of course, in their case  
22 they have regulations; we don't have regulations.

23 MR. ESTEY: Then the British Columbia  
24 plan, as I read the Tysoe Report, has three plans, (a),  
25 (b) and (c), but it is not too clear that those plans  
26 survived beyond the Tysoe Report. Do you happen to know  
27 if British Columbia follows a merit system?

28 MR. MacDONALD: I don't know whether  
29 they changed as a result of the Tysoe Report or not, no.

30 MR. ESTEY: At that time they had three







1 rather complicated plans. Are they fundamentally the  
2 same as your plan?

3 MR. MacDONALD: The basis will be roughly  
4 the same.

5 MR. ESTEY: It looks the same. It looks  
6 like they use 80 per cent instead of 75 per cent as the  
7 floor below which you may not go.

8 MR. MacDONALD: I am not familiar with  
9 their plan, Mr. Estey, I am sorry.

10 MR. ESTEY: Then, I take your advice not  
11 to get into some complicated discussion here, but there  
12 is one thing which recurs when we look at these from  
13 time to time in this discussion and that is the statement,  
14 I don't know exactly, but it paraphrases this way, that  
15 the Board in its report to the employer says, "And there-  
16 fore, the cost of this pension will be charged to you  
17 this year as \$10,395.". What does that expression mean,  
18 "charged to you for this year"?

19 MR. MacDONALD: When a pension has been  
20 established, we put into our pension fund in the year in  
21 which the award is made the capitalized sum which will  
22 provide for that pension for the lifetime of the pensioner  
23 concerned. Therefore, there is a capitalized charge to  
24 the employer and to the class in the year of the award,  
25 rather than an accumulation each year on a continuing  
26 basis of all the continuing pension funds. It goes in  
27 there once and then it is not charged again. The alterna-  
28 tive would be to current cost everything and have a  
29 continuing build up of pensions which are being charged  
30 currently. You get roughly the same result.





1 MR. ESTEY: Well, what happens when you  
2 charge the capitalized sum into the rate and then you  
3 allocate it inside the rate to the employer? Does the  
4 employer then have so many years to pay in that capital  
5 sum?

6 MR. MacDONALD: A section of our Act  
7 requires us to have rated in the year of the accident  
8 to provide for that liability.

9 MR. ESTEY: So if the accident occurs in  
10 65 and compensation is settled on in 1966 and the capital-  
11 ized sum is \$10 thousand, what happens to the assessment  
12 for 1966?

13 MR. MacDONALD: Well, actually, according  
14 to the section of the Act that deals with reserving, we  
15 should have in the year 1965, in our provision for assess-  
16 ments of that year, have allowed for that claim, although,  
17 in fact, the award may not be charged to the industry as  
18 a classed item until the following year or the year after  
19 that.

20 MR. ESTEY: Does the rate jump enough in  
21 that one year to put that money into the fund?

22 MR. MacDONALD: The rate will be adjusted  
23 each year in relation to the actual costs that have been  
24 either awarded or potentially to be awarded in relation  
25 of the claims of that year. We are required to take  
26 not only the situation of what has, in fact, already been  
27 paid, but we have to take an estimate of what will be  
28 paid.

29 MR. ESTEY: And recover that that year?

30 MR. MacDONALD: In setting the rates of





1 that year, if we have not recovered it, then the rate for  
2 the subsequent year, or likely the next three years, will  
3 be adjusted accordingly.

4 MR. ESTEY: So that when you are finished  
5 charging with respect to a given year, the fund has  
6 enough money in it to carry that pension that was awarded  
7 in that year?

8 MR. MacDONALD: Yes, sir.

9 MR. ESTEY: Then when you come to your  
10 experience rating for a three-year base, that base will  
11 be the adjusted cost for that year after everything for  
12 which reserves were made in that year, have been corrected  
13 by the fact that occurs maybe the year following?

14 MR. MacDONALD: Actually, when we come  
15 to experience rating, just to confuse the issue, we are  
16 on a strictly year-by-year basis.

17 MR. ESTEY: You catch it up anyway on a  
18 three year basis?

19 MR. MacDONALD: Yes.

20 MR. ESTEY: That is all I intended to ask  
21 you about the merit rating. You have some other material  
22 which you were going to leave with us arising out of  
23 earlier hearings. Would you like to deal with that now?

24 MR. MacDONALD: Before I do that, Mr.  
25 Estey, I would like to deal with section 86 (6a).

26 INCREASED ASSESSMENTS

27 Section 86 of the Workmen's Compensation  
28 Act was amended, effective July 1, 1964, by adding sub-  
29 section (6a) which reads as follows:

30 "Where the work injury frequency and the







1 accident cost of the employer are consis-  
2 tently higher than that of the average  
3 in the industry in which he is engaged,  
4 the Board, as provided by the regulations,  
5 may increase the assessment for that  
6 employer by such a percentage thereof as  
7 the Board may deem just, and may assess  
8 and levy the same upon the employer."

9 THE COMMISSIONER: Would this apply to  
10 people under the merit rating?

11 MR. MacDONALD: Yes, sir.

12 THE COMMISSIONER: It applies to every-  
13 body?

14 MR. MacDONALD: It applies to everyone  
15 and if an employer is eligible under section 86 (6a) for  
16 a larger charge, he is charged that larger amount.

17 REGULATIONS

18 Regulations pertaining to the application  
19 of Section 86 (6a) are set forth below.

20 5a.-(1) The increase of assessment that the Board may  
21 levy under subsection 6a of section 86 of the  
22 Act shall be levied where an employer within  
23 an individual rating classification,

24 (a) has incurred in two of the last three  
25 complete years of operation a deficit  
26 accident cost experience, including his  
27 proper share of administration, safety  
28 and other expenses;

29 (b) has incurred a lifetime deficit accident  
30 cost experience, including his proper





1 share of administration, safety and other  
2 expenses; and

3 (c) has incurred during two of the last three  
4 complete years of operation a frequency  
5 rate of compensable accidents at least  
6 25 per cent higher than the average rate  
7 in the industry in which he is classified.

8 (2) The actual payroll for the last complete year of  
9 operation under review shall be the basis for  
10 any additional assessment to be levied under  
11 subsection 1.

12 THE COMMISSIONER: (a), (b) and (c) are  
13 all alternatives, are they?

14 MR. MacDONALD: No, they must all pertain,  
15 sir.

16 (3) The first increase in assessment under subsection  
17 1 shall be 100 per cent of the assessment based  
18 on the individual rating classification of the  
19 employer.

20 (4) The amount of increase on any subsequent increase  
21 in assessment under subsection 1 shall be in the  
22 discretion of the Board.

23  
24 THE COMMISSIONER: That is 100 per cent?

25 MR. MacDONALD: 100 per cent is mandatory  
26 if three situations pertain.

27 THE COMMISSIONER: And it is never dis-  
28 allowed, there is no discretion in the Board except for  
29 subsequent ones?

30 MR. MacDONALD: I deal with the way appeals





are dealt with later, sir.

## 1965 ASSESSMENTS

A detailed listing was prepared indicating the firms eligible for increased assessments as provided by the regulations, i.e., firms with:

(a) deficit cost experience in at least two of the three years under review, 1962 - 1963 - 1964.

(b) deficit lifetime experience, and

(c) frequency rates at least 25 per cent higher than the rate number average in at least two of the three years 1962 - 1963 - 1964.

## DEFICIT EXPERIENCE

Deficit experience is the imbalance of accident cost over assessment paid. Administration costs, safety association expenses, and transfers to common reserves are charged on a rate number basis only and do not form part of an individual firm's cost experience. Since these costs amount to at least 15 per cent of assessment, imbalance occurs where accident cost exceeds 85 per cent of assessment paid.

Increased assessments were issued to 1782 employers under Section 86 (6a) of the Act for the first time in 1965. The increased assessment of 100 per cent was applied on the firm's actual 1964 payroll.

## APPEALS AGAINST CHARGES

Appeals against increased assessments under this section are favourably considered where:

THE COMMISSIONER: Issued to 1782 employers?







1 MR. MacDONALD: Yes, sir.

2 THE COMMISSIONER: How many employers do  
3 you have altogether?

4 MR. MacDONALD: At that time we had roughly  
5 105 thousand before the farming came into the Act. We have  
6 about 185 thousand employers now.

7 THE COMMISSIONER: All right.

8 APPEALS AGAINST CHARGES

9 Appeals against increased assessments under  
10 this section are favourably considered where:

- 11 1. The count of compensable cases and costs  
12 includes a claim, or claims, where there  
13 is an unusual factor involved, and the  
14 removal of this experience makes the firm  
15 no longer eligible.

16 THE COMMISSIONER: A lot of them might  
17 have had fairly good accident experience, but one bad  
18 accident experience would throw it out for three years?

19 MR. MacDONALD: We have to look at each  
20 case individually, sir. I can think of one case where  
21 the accountant had included a death case where, what had  
22 happened was that a tornado had come along and blown the  
23 car off the road and it certainly was not the responsibil-  
24 ity of the employer.

25 THE COMMISSIONER: That is the kind of  
26 case where they should be penalized or something.

27 MR. MacDONALD: Yes.

- 28 2. The lifetime or annual receipts are ab-  
29 normal and not a reflection of the actual  
30 experience of the employer.





3. The safety association concerned gives the employer an excellent report that is acceptable to the Board's Director of Safety Education, indicating a satisfactory accident prevention program in that firm.

STATISTICS RE 1965 CHARGES

The standing of Section 86 (6a) assessments to date is as follows.

Number of firms	1,782
Total amount assessed	\$4,439,952.23
Appeals established	479
Charges rescinded	\$2,695,493.79
Amount payable under Section 86(6a)	\$1,744,458.44

When these increased assessments are paid, they are credited to the proper rate number classification.

THE COMMISSIONER: To whom does an appeal of that kind come?

MR. MacDONALD: It comes, in the first instance, to the Finance Department who had originally issued the charge and if it is not possible for them to make a change in their determination based on the criteria I have just referred to, then it will be dealt with in the appeal system, to the Review Committee, to the Appeals Tribunal and finally to the Board.

BASIC PURPOSE OF SECTION 86(6a) PROGRAM

The purpose of Section 86 (6a) is to force employers to develop an effective safety program. The additional assessments are not designed for income production since the assessment rate is calculated to cover





1 all costs incurred within each rate number.

2 I can't emphasise that too much. It is  
3 not a fund raising section.

4 MR. ESTEY: I was busy trying to find  
5 something in the Act when this question came up as to  
6 when your 86 (6a) applies. I take it it does not apply  
7 to anybody under one of your two merit systems.

8 MR. MacDONALD: Yes.

9 MR. ESTEY: Does it cut across that?

10 MR. MacDONALD: It cuts across it and if  
11 an employer is eligible for a larger charge under section  
12 86 (6a), then he would be under experience rating, he  
13 is charged the 86 (6a) charge.

14 MR. ESTEY: Not both but the higher of  
15 the two.

16 MR. MacDONALD: Never both, the higher  
17 of the two.

18 MR. ESTEY: When you come to apply this  
19 power which the legislature gives you in 86 (6a), and  
20 you issue regulation 5, we come to this, that if the  
21 employer meets, falls into the three descriptions, in 5a-  
22 (1), (a), (b) and (c), then he becomes liable for the  
23 payments under (3)?

24 MR. MacDONALD: Yes, sir.

25 MR. ESTEY: But (3) says: "The first  
26 increase in assessment under subsection 1, (which is the  
27 increase under 86 (6a),) the first increase shall be  
28 100 per cent". And that applies right across the board.  
29 As soon as you fall into the three slots you are in 100  
30 per cent reassessment?







1 MR. MacDONALD: That is right.

2 MR. ESTEY: Whereas the statute says,

3 "The Board may increase the assessment for that employer  
4 by such percentage thereof as the Board may deem just".

5 I am wondering how the regulation can be an expression of  
6 what the Board means when it applies automatically. If  
7 the shoe fits, that is the size. Has anybody ever comp-  
8 lained about that?

9 MR. MacDONALD: Not actually in those  
10 words. I think what you are pointing out is that section  
11 86 (6a) itself, is permissive whereas the regulation has  
12 become a mandatory type of development.

13 MR. ESTEY: The regulation is rigid,  
14 whereas the section says the legislature commands the  
15 Board to find out what is just for that employer. The  
16 Board hasn't done it on a per-employer basis, they have  
17 done it on a legislative basis.

18 MR. MacDONALD: I think, in fact, what  
19 does happen though, is that in the first instance the  
20 assessments are issued assuming the employer falls within  
21 the three categories. Then, each case on appeal is dealt  
22 with in relation to the factors which are not really known  
23 to us at the time we make the original application of the  
24 penalty.

25 MR. ESTEY: I see, so that what happens  
26 is when you turn to the statistics from the last page,  
27 (3) of this brief, that if you take your appeal through  
28 the normal appeal procedure, then you get an exercise of  
29 discretion which looks as though you have at least a  
30 50-50 chance of getting relief.





1 MR. MacDONALD: This is right.

2 MR. ESTEY: Statistically. But if you  
3 don't appeal you don't get any exercise of discretion?

4 MR. MacDONALD: That is a fact, yes.

5 MR. ESTEY: And whether it is good law  
6 or not, it is good statistically because you have 135  
7 thousand employers and you can't, I suppose, run through  
8 and exercise your discretion in all these cases, so you  
9 do it by regulation and then the discretion comes into  
10 play on the appeal.

11 MR. MacDONALD: That is how we started  
12 to do it. It is somewhat imperfect, but that is it.

13 MR. ESTEY: When you send out the notice  
14 of assessment, do you put on the bottom of it, "If you  
15 don't like this, you may appeal"?

16 MR. MacDONALD: No, we don't.

17 MR. ESTEY: You do in the case of a  
18 rejection of a claim and I am wondering why you don't  
19 have that on. The municipalities, of course, print that  
20 on their tax notices. I am wondering why you don't do  
21 it.

22 MR. MacDONALD: Frankly, we had not con-  
23 sidered that point as a problem. We have been very active  
24 on the public platform and every spot we could be heard  
25 indicating that this was the way in which we were proceed-  
26 ing and I think that the safety associations are certainly  
27 letting their employers know that an appeal process is  
28 available to them.

29 MR. ESTEY: Where does the appeal process  
30 start? If the employer doesn't like what he gets, he





1 writes you a letter, is that the start? Does he have to  
2 put in a formal notice?

3 MR. MacDONALD: No, a letter is a normal  
4 basis for appeal.

5 MR. ESTEY: Once you get a letter do you  
6 put it into the normal appeal procedure?

7 MR. MacDONALD: It depends if there is  
8 information or something in that letter which allows the  
9 Department itself to make an investigation of a claim or  
10 claims or to investigate the assessment that has been  
11 issued and it does, when adjusted, make the firm no longer  
12 eligible and the Department itself may make the cancellation  
13 of the original charge.

14 MR. ESTEY: If the department receiving  
15 the letter doesn't grant that relief at that level and  
16 they reply to the employer, do they then ask him if he  
17 wishes to appeal?

18 MR. MacDONALD: They do at that point.

19 MR. ESTEY: They don't simply say no and  
20 see what happens?

21 MR. MacDONALD: No.

22 MR. ESTEY: Then, if the employer says  
23 he wishes to appeal, where does he go to start with?

24 MR. MacDONALD: To the Review Committee.

25 MR. ESTEY: Does he appear before that?

26 MR. MacDONALD: The Review Committee, as  
27 has been indicated earlier, is a committee that deals  
28 with files and information, in-files, internally. It  
29 does not hold hearings.

30 MR. ESTEY: And then, of course, the







1 employer doesn't know at this stage that that is where it  
2 is going to go; he simply says, "I want an appeal". Then  
3 is the decision of that Review Committee communicated  
4 to the employer in the same way as a claims adjudication?

5 MR. MacDONALD: Exactly in the same way.

6 MR. ESTEY: And at that time, if he doesn't  
7 like this decision, he can go to the Appeals Tribunal.

8 MR. MacDONALD: Yes.

9 MR. ESTEY: And from then on it is handled  
10 in the normal way. You say there were 479 of those going  
11 through the various stages?

12 MR. MacDONALD: There were none of them  
13 got as far as the Board. They were all dealt with at  
14 the appeal level.

15 MR. ESTEY: Or lower?

16 MR. MacDONALD: Yes.

17 MR. ESTEY: And more than half of the  
18 amounts assessed were refunded?

19 MR. MacDONALD: Yes.

20 MR. ESTEY: And some 1,300 did not appeal?

21 MR. MacDONALD: That is right, did not  
22 appeal. One interesting thing that I might point out is  
23 that before 1965 over 2 million dollars had been actually  
24 paid out under section 86 (6a).

25 MR. ESTEY: Do you have to pay before  
26 you can be heard?

27 MR. MacDONALD: No, sir.

28 MR. ESTEY: What did you say about grant-  
29 ing relief on appeal? The first one is where there is  
30 an unusual factor involved. I suppose that means where





1 it is a peculiar accident, a one-shot type of accident.

2 MR. MacDONALD: Very often we are talking  
3 about claims where there is something unusual about the  
4 claim itself.

5 MR. ESTEY: You speak about the annual  
6 receipts not being the actual reflection. What does  
7 that mean?

8 MR. MacDONALD: We had one where the  
9 payroll had been underestimated quite drastically and  
10 that took them out of a deficit for that year.

11 MR. GREAVES: It means, Mr. Estey, that  
12 the firm paid in the year 1964 on their estimated payroll  
13 which turned out to be very much lower than their annual  
14 payroll which we received in the following year, and had  
15 they paid on the actual payroll, they wouldn't have been  
16 in this position.

17 MR. ESTEY: I suppose that would happen  
18 frequently in the construction industry where their  
19 actual payroll depends on how much they sub-contract.

20 MR. GREAVES: That is right, or how  
21 many contracts they get during the year.

22 MR. ESTEY: They might sub-contract them  
23 out where there is very little payroll in the following  
24 year and if they don't sub-contract out, they would be  
25 away out.

26 MR. GREAVES: Yes, that during the year  
27 1964, some way or other, the firm has estimated too low  
28 on their payroll and they paid an assessment on that  
29 payroll, but the following year it turns out that it was  
30 much higher.





1 THE COMMISSIONER: And, accordingly, in  
2 1966 there hadn't been an increase?

3 MR. GREAVES: That is right.

4 THE COMMISSIONER: And the penalty was  
5 disallowed?

6 MR. GREAVES: Yes.

7 MR. ESTEY: And by the same token, they  
8 recover an allowance that has been made and it is found  
9 out that they have misestimated the year before.

10 MR. GREAVES: We haven't had that exper-  
11 ience yet.

12 MR. ESTEY: Nobody estimates too high.

13 MR. MacDONALD: No, because to-day the  
14 actual payrolls are invariably higher than estimated  
15 payrolls. They are allowed to be out 100 per cent before  
16 a penalty is applied, and then it is five per cent of the  
17 amount of the assessment that should have been paid  
18 initially.

19 MR. ESTEY: A flat 5 per cent?

20 MR. MacDONALD: Yes.

21 MR. ESTEY: Are all these cases which are  
22 appealed referred to the Safety Association for report?

23 MR. MacDONALD: If the essence of the  
24 submission is that they do have a good safety program,  
25 then, in every case, they are referred to the Safety  
26 Association for a report. In every case, if they had  
27 a charge last year and this is the second case, then it  
28 is referred to the Safety Association as to their program.  
29 We have emphasized that what we are after here is not  
30 additional funds but that a good program be developed,







1 and this is why we proceed on this basis.

2 MR. ESTEY: Thank you, Mr. MacDonald.

3 MR. MacDONALD: I was asked, at an earlier  
4 session, to produce some information. Table 10 is a  
5 statement of the number of accidents in the compensable  
6 area for 076, and those are in Table 10, nickel and motor  
7 vehicle manufacturers.

8 The next table has to do with frequency  
9 rates. We are recording here, the compensable payments  
10 which are payments for each of these calendar years,  
11 having occurred in those years, and involving payments up  
12 to the following year. So we are talking about the first  
13 payment, which is the same base of cases that we relate  
14 to man hours to get our frequency rate.

15 THE COMMISSIONER: I will have to ask  
16 you to give me that explanation again, please.

17 MR. MacDONALD: The cases which we refer  
18 to here are those cases which involve compensation in  
19 the years which are listed there and involve compensation  
20 payment up to June 30th of the following year. We hold  
21 the records open and don't count it as a case for this  
22 purpose until June of the following year. This shows  
23 that in the nickel industry for 1960, there were 1,516  
24 cases, and in 1961 there were 1,241, which was a reduction  
25 of 18.1 per cent. In 1962 there were 1,076 cases, which  
26 is a reduction of 20 per cent. In 1963 there were 967  
27 cases, which is a reduction of 36.6. In 1964 there were  
28 1,237 cases, which is a reduction of 18.4 per cent from  
29 1960. In 1965 there were 1,845 cases, which is an increase  
30 of 21.7 per cent.





1 MR. ESTEY: All of these were a reduction  
2 from 1960 or an increase from 1960.

3 MR. MacDONALD: They are rated from 1960,  
4 the base year. It shows that in the motor vehicle industry  
5 there were, in 1960, there were 485 cases; in 1961, 456  
6 cases, a reduction of 6.0 per cent; in 1962 there were  
7 633 cases, an increase of 30.5 per cent; in 1963 there  
8 were 842 cases, an increase of 73.6 per cent. In 1964  
9 there were 1,447 cases, an increase of 198.4 per cent.  
10 In 1965 there were 2,008, an increase of 314.0 per cent.

11 MR. ESTEY: Could we have the payroll  
12 number of the employees for each of these years?

13 MR. MacDONALD: That is Table 13. That  
14 is coming up, for all of schedule 1.

15 MR. ESTEY: That is not the number of  
16 employees. Did we have that before?

17 MR. MacDONALD: Yes, I think you have it  
18 from a previous table, the number of employees.

19 For all of schedule 1 there were 60,671  
20 compensable cases in 1960; 54,095 in 1961, a reduction  
21 of 10.8 per cent; 57,573 cases in 1962, a reduction of  
22 5.1 per cent; 69,081 cases in 1963, an increase of 13.9  
23 per cent; 81,915 cases in 1964, an increase of 35.0 per  
24 cent; 90,794 cases in 1965, an increase of 49.6 per cent.

25 The next table indicates the frequency  
26 rates of compensable accidents, which is the number of  
27 accidents per million man hours worked. Would it be  
28 agreeable, sir, if I just gave the first and last figures  
29 instead of giving all the years?

30 MR. ESTEY: I wonder if we might ask some





1 questions here. Is there any table which doesn't use  
2 the base as for this Table 10, that is the claims occurring  
3 in the year and involving payments to June of the follow-  
4 ing year? Is there any table like this, which you have  
5 given us before which isn't based on that?

6 MR. MacDONALD: Yes, there were some  
7 cases which dealt with settled cases. You have to wait  
8 for a period until the case is settled before you can  
9 count it. In the case of permanent disability it is up  
10 to two years.

11 THE COMMISSIONER: It only shows the  
12 compensable accidents up to the following year, 30th of  
13 June.

14 MR. MacDONALD: It shows cases which occur  
15 in that year and which had compensation paid to them. It  
16 counts from the moment compensation is paid. It includes  
17 all cases which will eventually be settled; it just  
18 counts them earlier.

19 MR. ESTEY: Do your records show the  
20 number of employees?

21 MR. MacDONALD: No, our records don't show  
22 that directly, but I remember sending to Mr. Justice  
23 McGillivray the number of employees. You should have it  
24 in your files.

25 MR. ESTEY: The number of cases wouldn't  
26 mean too much if the number of employees went up or  
27 down.

28 MR. MacDONALD: The employment picture  
29 is certainly a very large factor of the story.

30 MR. ESTEY: Also, you couldn't discern







1 that change by looking at Table 13, because you would  
2 also have to know when the new collective agreements  
3 started.

4 MR. MacDONALD: This is another complica-  
5 ting factor, yes.

6 The rate of compensable accidents in the  
7 nickel industry went up from 37.1 per cent in 1960 to  
8 44.4 per cent in 1965. In the automotive industry, it  
9 went from 8.5 to 18.4 per cent. In schedule 1, it went  
10 from 21.7 to 26.3.

11 MR. ESTEY: Are these cases per thousand?

12 MR. MacDONALD: These are the number of  
13 compensable cases per million man hours worked.

14 The next two tables were actually provided  
15 unofficially before, and we are just now documenting them  
16 for your record, rather than in answer to a question.

17 It emphasizes that in the case of the motor vehicle indus-  
18 try, there was an average weekly wage of \$123.08, versus  
19 the average in all of schedule 1 of \$88.99. It shows  
20 that the percentage of payroll increase in the nickel  
21 industry was 11.7 per cent, and in the motor vehicle  
22 industry, it was 140.5 per cent and overall, in schedule  
23 1, 44.3 per cent. Table 14 --

24 THE COMMISSIONER: Going back to Table  
25 10, the compensable cases, there is an increase of 21.7  
26 per cent, and in that time there was a payroll increase  
27 of 11.7 per cent.

28 MR. MacDONALD: That is right, sir.

29 THE COMMISSIONER: Really what we need is  
30 the number of employment increase. The payment increase





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2546

1 would indicate there has been an employment increase.

2 MR. MacDONALD: Well, the number of hours  
3 worked could complicate that too. I was asked to give  
4 you more detail concerning the actual physical change in  
5 our administration cost rather than expressing it as a  
6 percent of our overall dollar.

7 We have shown that our staff payroll shows  
8 an 25.2 increase between 1963 and 1965. The Board staff  
9 has gone up from 1,249 to 1,368, an increase of 9.5 per  
10 cent. All other administration cost has been actually  
11 reduced during that period which, it should be explained,  
12 was by a special situation that developed. During that  
13 period the Board's contribution to our own superannuation  
14 staff fund was reduced. On an annual allocation, at the  
15 recommendation of our consulting actuary, it was found to  
16 be no longer necessary. This shows that our total ad-  
17 ministration costs have gone up 18.9 per cent during the  
18 3-year period. During that period, claims went up 25.4  
19 per cent, and the actual number of staff has gone up 9.5  
20 per cent.

21 MR. ESTEY: That means that 1965 over  
22 1963 is 9.5 per cent.

23 MR. MacDONALD: That is right.

24 The following statistics are presented on  
25 request by Mr. Justice McGillivray, as a comparison with  
26 those presented to the Commission of Enquiry on the  
27 Province of British Columbia Workmen's Compensation Act,  
28 on page 23 of the Report of the Commissioner, the Honourable  
29 Mr. Charles W. Tysoe.

30 What you asked us, sir, was to take the





figures there and extend them to the end of 1965 and to develop benefit indices for Ontario which would be comparable.

#### CONSUMER PRICE INDEX

The consumer price index referred to in the Tysco Report is one calculated monthly by the Dominion Bureau of Statistics and relates to Canada as a whole. The consumer price index has been recalculated by the Department of Labour, Ottawa, with a base year, 1917, which is too distant to be meaningful. You will notice we have not listed that. The current basis for all indices is 1949 = 100. The consumer price index is not calculated by province as far as we can determine. We had those statistics which were purely British Columbia.

#### BRITISH COLUMBIA STATISTICS

Presumably, the benefits referred to are for British Columbia. We cannot verify the reference to average wage rates of 180.0 in 1961. The Industrial Composite Index for British Columbia, was 186.6 in 1961 and 181.8 for Canada in that year.

#### ONTARIO INDICES

A comparison of benefits for widows and children under the Ontario Workmen's Compensation Act is shown on the attached appendix since 1939. The Consumer Price Index (Canada), the Average Weekly Wage Index (Ontario), the Average Weekly Wage Index (Ontario W.C.B., T.T. Claims Only), and Benefits Index (Ontario W.C.B. Widows and Children) are shown. The base year in all cases is 1949 = 100.

The index of Ontario W.C.B. benefits for children is considerably higher than the Consumer Price Index or wage indices. The index of Ontario W.C.B.







benefits for widows, although slightly above the Consumer Price Index, is considerably lower than the two wage indices.

Now, giving a capsule comment on the actual indices, 1949 = 100, in 1965 the Consumer Price Index for Canada was 138.7; the Average Weekly Wage Index for Ontario was 212.8 per cent in 1965; and the Average Weekly Wage Index for Ontario was 221.0 per cent; the Benefits for Widows is 150.0, and the Index for Children went to 333.3 in 1965.

MR. ESTEY: Mr. MacDonald, would you mind explaining the middle column. The middle one is the one where the Workmen's Compensation Board averages weekly wages. I don't understand that.

MR. MacDONALD: This is just the average weekly wage that has been used as the basis for compensation in our schedule 1 during that period, something slightly different than the average wage for everybody that was earning and who doesn't have an accident.

MR. ESTEY: That is not using a constant dollar, that is just the arithmetic.

MR. MacDONALD: That is just the arithmetic. In every case we took a dollar amount and converted it to an index.

MR. ESTEY: The Consumer Price Index, using 1949 as 100, that is not a constant dollar either.

MR. MacDONALD: Sorry, Mr. Estey?

MR. ESTEY: Your first column, does that assume that the dollar is constant? The third one, you say, it doesn't.





1 MR. MacDONALD: To be clear on what we  
2 have done, we have taken the actual weekly wage as our  
3 records indicated we awarded compensation on in 1949  
4 and we converted that to 100 as a base.

5 MR. ESTEY: In both cases you did that?

6 MR. MacDONALD: In both cases we did that.

7 MR. ESTEY: So that throughout this you  
8 have a constant dollar?

9 MR. MacDONALD: You have a constant dollar  
10 level, yes.

11 MR. ESTEY: This would demonstrate, at  
12 least it does to me, but maybe you should set me right,  
13 that this base is more favourable than if we had a  
14 statute in 1949 which said that, "From here on we will  
15 fluctuate pensions and pay-outs according to the Consumer  
16 Price Index".

17 MR. MacDONALD: That is correct, but you  
18 have to assume that the base in 1949 was adequate or  
19 proper in order to say that. If you could make that  
20 assumption that the benefit at that time was proper, then  
21 your deduction is right, regardless of what it was. I  
22 don't want to be, in effect, saying that benefits have  
23 increased at a greater level than they should have.

24 MR. ESTEY: I understand that. But if you  
25 had started the race at the same time with the two formulae,  
26 one on the floating index of the British Columbia system  
27 of proposal, and one on the basis which we did in Ontario,  
28 then the recipients have an advantage under the Ontario  
29 system to what they would have had if the B.C. system had  
30 been adopted with the same start line?





1 MR. MacDONALD: That is correct, yes.

2 THE COMMISSIONER: When was it altered?

3 MR. MacDONALD: As far as the widows were  
4 concerned, they were changed in 1953, sir. Children were  
5 changed in --

6 THE COMMISSIONER: It looks as if they  
7 were last changed in 1963, children.

8 MR. MacDONALD: Yes, they were changed in  
9 1953 and 1963.

10 THE COMMISSIONER: What is the middle  
11 column?

12 MR. MacDONALD: The middle column is the  
13 basis on which compensation awards were made, sir, the  
14 wage basis on which we awarded the total, temporary  
15 compensation claim.

16 THE COMMISSIONER: In other words, it  
17 has increased to 221 percent.

18 MR. MacDONALD: During that period, yes.

19 THE COMMISSIONER: Of course there was  
20 a change there. Was there a change there in 1963? Did  
21 they raise the amount to \$6 thousand or when was that  
22 done? The 75 per cent was established by Mr. Justice  
23 Roach, was it not?

24 MR. MacDONALD: We will get to the exact  
25 date, sir. I do not have a table in front of me. The  
26 wage basis of \$6 thousand was effective July 1, 1963,  
27 increased from \$5 thousand to \$6 thousand. It was increased  
28 from \$4 thousand to \$5 thousand as of January 1st, 1957  
29 and it was increased from \$3 thousand to \$4 thousand as  
30 of January the 1st, 1952.







1 MR. ESTEY: Have you got any extra copies  
2 of that document, Mr. MacDonald?

3 MR. MacDONALD: We will get one.

4 MR. KERR: I believe I have submitted  
5 copies to you, Mr. Estey, but I will resubmit them.

6 MR. ESTEY: I don't see any numbers on  
7 them as an exhibit.

8 MR. KERR: They weren't submitted as an  
9 exhibit. They were given to you before the Hearing  
10 started, I believe.

11 MR. MacDONALD: This details the effect  
12 of every amendment and the benefit change involved.

13 MR. KERR: Certainly additional copies  
14 are available, sir.

15 THE COMMISSIONER: We have copies of them,  
16 I know. And the 75 per cent has been in existence a  
17 long time, even before the Mr. Justice Roach Report, has  
18 it not?

19 MR. MacDONALD: The 75 per cent was  
20 January the 1st, 1950.

21 MR. ESTEY: Shall we give this a number  
22 now?

23 THE SECRETARY: Give it 40.

24 EXHIBIT NO. 40:

25 Changes in the Act and the benefits.

26  
27  
28 THE COMMISSIONER: That is the changes  
29 in 1949 were adequate. These periodic changes over the  
30 period had resulted in a more adequate allowance than





1 they would have received otherwise. That is always pro-  
2 viding that it is brought up to date from time to time  
3 on past awards. In this particular case, it was paid out  
4 of the compensation fund and that is one of the points  
5 that is raised in this Inquiry, as it was before Mr.  
6 Justice Roach. Assuming that the pension was established,  
7 not on 75 per cent of the wages of the employee for the  
8 previous 12 months, but was - it was established on that  
9 basis but subject to an increase in accordance with the  
10 increased cost of living, have you any figures on what  
11 the estimated costs would be?

12 MR. MacDONALD: That is the next table  
13 I have, sir.

14 THE COMMISSIONER: Oh, I see. In the  
15 first place, is it actuarially possible, looking only at  
16 the pensions which may be awarded in the future to  
17 estimate what amount may be paid into the compensation  
18 fund to take care of such pensions?

19 MR. MacDONALD: The Board felt that we  
20 should not, from our own resources, make this calculation.  
21 We should get a consulting actuary to make the calculation  
22 for us and this has been done. The calculations I am  
23 about to give you, are the calculations of an independent  
24 consulting actuary who has access to our complete pension  
25 file. We asked him to make a calculation of the full  
26 capitalized cost of tying disability and dependency  
27 pensions to the cost of living index, assuming an average  
28 annual increase of 2 per cent, which was the basis used  
29 in British Columbia.

30 THE COMMISSIONER: Assuming an annual





1 average increase of 2 per cent, yes.

2 MR. MacDONALD: We also asked him, from  
3 his knowledge of the rate of creation of new pensions,  
4 to determine the additional annual capitalized cost for  
5 new pensions, which would be occurring from year to year  
6 in the future. He has stated that the full capitalized  
7 cost of providing a base for existing pensions to be  
8 tied to a 2 per cent spiral, is \$41,200,000.

9 THE COMMISSIONER: That is all existing  
10 pensions?

11 MR. MacDONALD: That is all existing  
12 pensions, dependency and disability.

13 THE COMMISSIONER: How much of that have  
14 you got now, or would that be an additional cost?

15 MR. MacDONALD: This would be an additional  
16 cost, this is available now.

17 THE COMMISSIONER: Additional capitalized  
18 cost, right.

19 MR. MacDONALD: If that were to be amor-  
20 tized over a ten year period -

21 THE COMMISSIONER: Applying to existing  
22 pensions?

23 MR. MacDONALD: Existing pensions, yes,  
24 sir. This would have a ten year amortized cost of  
25 \$4,880,000. for each of the next ten years which would  
26 affect assessments by 5.9 per cent.

27 THE COMMISSIONER: Would increase assess-  
28 ments by that amount?

29 MR. MacDONALD: That is right. The  
30 additional capitalized cost for new pensions which would







1 be created during that period, over and above the present  
2 benefits, if this change was made, is \$4,300,000 and  
3 this is a cost that goes on ad infinitum, it is not just  
4 a ten year cost.

5 THE COMMISSIONER: That would be the  
6 cost of the new pensions every year?

7 MR. MacDONALD: Yes, sir.

8 THE COMMISSIONER: That is over and  
9 above what it would otherwise be?

10 MR. MacDONALD: Yes, sir. So you have  
11 an additional 5.2 per cent increase in assessments  
12 arising out of that.

13 MR. ESTEY: Does that mean that the total  
14 assessment increase would be 11.1 per cent on the average?

15 MR. MacDONALD: This is correct, yes.

16 If widows pensions were to be updated to  
17 \$125 per month before this plan was put into effect, the  
18 basis would be greater and, therefore, the capitalized  
19 cost would become \$47,400,000. That is in addition to  
20 the previous estimate we gave you of a little over  
21 \$30 million just to make the change to \$125 and this  
22 would have a ten year amortized cost of \$5,610,000,  
23 which is a 6.8 per cent increase in assessment.

24 MR. ESTEY: Is that over and above the  
25 5.9, or does that include it?

26 MR. MacDONALD: What I am pointing out  
27 here is that if you change the widow base to 125, you  
28 would be starting out from a larger base and the 2 per  
29 cent would become bigger.

30 MR. ESTEY: So the 5.9 becomes 6.8?





1 MR. MacDONALD: Yes. They are "or", not  
2 "and", and the estimated annual additional capitalized  
3 cost of increasing new pensions would become \$4,950,000,  
4 which is 6 per cent increase in assessments.

5 Our advisors have indicated that a 2 per  
6 cent increase in the cost of living index, is something  
7 less than has been experienced in recent years and there-  
8 fore, we believe that these calculations of liability are  
9 somewhat underestimated.

10 THE COMMISSIONER: In this last year has  
11 there been an increase of over 2 per cent in recent years?

12 MR. MacDONALD: Yes, sir, it was over 3  
13 per cent. The last increase was over 3 per cent.

14 THE COMMISSIONER: The last one was over  
15 3 per cent, I know.

16 MR. ESTEY: Table 15 shows that in the  
17 first column.

18 MR. MacDONALD: Yes, sir, it shows they  
19 have gone up 3.3 per cent.

20 MR. ESTEY: That is 2 per cent of a fixed  
21 basis that you are talking about?

22 MR. MacDONALD: If you are looking at it  
23 as a per cent of the previous year, it is about almost  
24 3 per cent, it is something a little less than 3 per cent  
25 it is over 2 per cent.

26 MR. ESTEY: I am just trying to find out  
27 what it means on the top of Table 14, "Average annual  
28 increase of 2 per cent". Is that of the immediately pre-  
29 ceding year?

30 MR. MacDONALD: Yes.





1 MR. ESTEY: So that would soon become a  
2 big increase over a base year?

3 MR. MacDONALD: Yes.

4 MR. ESTEY: Then Table 13, it would seem  
5 that 2 per cent - I don't follow that comment that your  
6 advisors make at the foot of Table 14 because over a  
7 period of 17 years, 1949 to 1965, you are going along at  
8 less than 2 per cent over the previous year, are you not?

9 MR. MacDONALD: I think all of us have  
10 seen a rather dramatic change in this last year or so  
11 in the way in which these things are changing. I am not  
12 pretending to be an expert personally here. I am just  
13 pointing out that there is this possibility that the  
14 assumption of 2 per cent could be invalid but, if the  
15 recent experience proves to be more accurate than that  
16 of the previous 17 years.

17 THE COMMISSIONER: In addition to that,  
18 this Table 15 is 38 per cent over the base index.

19 MR. MacDONALD: Yes, sir.

20 THE COMMISSIONER: The other one, on the  
21 way would become compounded, wouldn't it, it would be  
22 2 per cent on the pension of the previous year and each  
23 succeeding year, would it not?

24 MR. MacDONALD: Yes. Frankly, I would  
25 not like to be quoted on which way this is being done.  
26 I am not sure, personally. I can't speak for what  
27 British Columbia is doing on that.

28 MR. ESTEY: However the arithmetic is  
29 worked out, the statement is made this 12.8 per cent or  
30 this 11.1 per cent increase is probably conservative







1 rather than generous.

2 MR. MacDONALD: That is our point, yes.

3 MR. ESTEY: It would seem to be so, if  
4 1964 to 1965 were carried on further.

5 MR. MacDONALD: Yes.

6 THE COMMISSIONER: Do you know anything  
7 about the experience in administering these things? I  
8 notice a report from California about, I think, something  
9 to do with disability payments in connection with unemploy-  
10 ment insurance, or some tied in scheme where they said  
11 they had had a bad experience with this type of operation.

12 MR. MacDONALD: I think the big problem  
13 is to reserve properly for this type of program. You  
14 have to make your assumptions from the past and if things  
15 change drastically, as they seem to have recently, then  
16 all of your assumptions from the past have led you astray  
17 in your reserving. I think we commented earlier that if  
18 you develop such a program, that you would expect to have  
19 to make modifications and adjustments in your capitaliza-  
20 tion in future years.

21 MR. ESTEY: I suppose if enough pension  
22 plans and workmen's compensation plans were geared to  
23 this cost of living index, that the thing would either  
24 run out of hand or go to zero, depending upon whether the  
25 first year after that universal adoption there was an  
26 increase or a decrease?

27 MR. MacDONALD: Theoretically, that is  
28 correct, yes.

29 MR. ESTEY: Of course that would only  
30 be so if you had a de-escalation clause? This is not





1 proposed. By the way, this Table 14, could we renumber  
2 that Table 16 so as to avoid confusion with what is  
3 already Table 14?

4 MR. MacDONALD: The reason we numbered  
5 it Table 14 was that it is Table 14 in the proposed  
6 benefits and the others are Table 14 in the historical  
7 benefits.

8 MR. ESTEY: I don't follow that.

9 MR. MacDONALD: We had two series of  
10 tables which we numbered from one through and the first  
11 group was Historical Background Tables, the second group  
12 was Benefit Estimate Tables.

13 MR. ESTEY: Oh, yes, we already have two  
14 ones and so on.

15 MR. MacDONALD: So there is a Table 13  
16 under the benefit proposal.

17 MR. ESTEY: And this is 14 under the  
18 proposals.

19 MR. MacDONALD: Proposals as far as  
20 benefit changes are concerned.

21 THE COMMISSIONER: And what did you call  
22 the other tables?

23 MR. MacDONALD: Historical Tables re-  
24 lating to the background of experience or prior benefit  
25 changes.

26 MR. ESTEY: That is all I have to ask.

27 THE COMMISSIONER: Thank you, Mr. Mac-  
28 Donald.

29 Shall we go on with Mr. Kerr in the  
30 morning?





1 MR. ESTEY: Mr. Kerr is still to be  
2 heard and the Pulp and Paper Association can be here  
3 until tomorrow.

4 THE COMMISSIONER: That is what we will  
5 have to do then, adjourn until 10:00 o'clock in the  
6 morning.

7  
8 ---At 4:50 p.m., the Hearing adjourned  
9 until 10:00 a.m., Thursday the 27th  
10 of October, 1966.  
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PROVINCE OF ONTARIO

ROYAL COMMISSION

ON

THE WORKMEN'S COMPENSATION ACT

HEARINGS HELD AT  
TORONTO, ONTARIO

VOL. NO.

DATE

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IN THE MATTER OF The Public Inquiries  
Act, R.S.O. 1960, Ch. 323

- and -

IN THE MATTER OF an Inquiry Into and  
Report Upon The Workmen's Compensation  
Act

BEFORE: The Honourable Mr. Justice G.A.  
McGillivray, Commissioner, at  
Room 200, 67 Richmond Street  
West, Toronto, Ontario, on  
Thursday, October 27, 1966

APPEARANCES:

W.Z. Estey Q.C.)	
and )	Counsel to the Commission
H.D. Guthrie )	
W.R. Kerr )	Workmen's Compensation Board
Mr. Worling)	
A.G. MacDonald)	
G.N. Yourt	Rio Algom Mines Limited
G. Gallagher	Labourers' International Union of North America
R.J.D. Anderson	Industrial Accident Prevention Association
E. Edward Grainger	Ontario Pulp and Paper Makers' Safety Association







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Toronto, Ontario

INDEX

Page No.

1	Workmen's Compensation Board	2561, 2601
2	Industrial Accident Prevention Assoc.	2583
3	Ontario Pulp and Paper Makers' Safety Association	2589
4	Automotive Transport Assoc. of Ontario	2645
5	Bell Telephone Company of Canada	2645
6	Board of Trade of Metropolitan Toronto	2645
7	The Construction Safety Assoc. of Ontario	2645
8	Northern Forest Products	2646
9	Ontario Federation of Construction Assocs.	2647, 2649
	Ontario Forest Industries Assoc.	2648
10	Retail Council of Canada	2648
11	United Steel Workers	2649
12	International Nickel Company	2649

EXHIBITS

14	41	Schedule prepared by Mr. MacDonald, headed "Example of Experience Rating"	2561
16	42	1965 Annual Report of the Industrial Accident Prevention Association	2587
18	43	Annual Report of Ontario Pulp and Paper Makers' Association	2601

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1 ---At 10:00 a.m., the Hearing resumed.

2 MR. ESTEY: Mr. Commissioner, I am not  
3 sure whether Mr. MacDonald had an additional study to  
4 present or not. I have a document headed, "Example of  
5 Experience Rating" and it deals with the Ontario Plans  
6 and Alberta Plan.

7 Do you wish to present that, Mr. MacDonald?

8 MR. MacDONALD: The point I was making  
9 yesterday, Mr. Estey, was that we would provide these  
10 examples of how the two Ontario Plans and the Alberta  
11 Plan would work out in the case of an individual employer.

12 I do not see any real purpose in having  
13 a complete reading of the plans into the record. The  
14 basic thing that is shown by the statement is that the  
15 50 per cent plan does provide for a greater refund and  
16 a greater charge than the Alberta Plan.

17 MR. ESTEY: Do you have another copy of  
18 that for the Commissioner?

19 EXHIBIT NO. 41: Schedule prepared by Mr.  
20 MacDonald, headed "Example  
21 of Experience Rating".

22  
23 MR. ESTEY: Do you mind explaining that  
24 first page, just to give us an example of how this thing  
25 works?

26 MR. MacDONALD: Under the Ontario Plan  
27 we have presented an Exhibit where the assessment rate  
28 for the classification was one dollar, and the three-year  
29 average cost rate for the group was 86 cents.

30 Under the 25 per cent plan, the preferred





1 rate under the formula becomes  $83\frac{1}{2}$  cents; the maximum  
2 credits that a firm can earn, if they are at the preferred  
3 rate, is  $16\frac{1}{2}$  cents.

4 This is the first sheet, sir.

5 THE COMMISSIONER: On the first page?

6 MR. MacDONALD: Yes, "Example of Experience  
7 Rating". I believe you have turned over the first page,  
8 sir.

9 THE COMMISSIONER: I am sorry, I see, yes.

10 MR. MacDONALD: The maximum credit rate  
11 is  $16\frac{1}{2}$  cents and the maximum charge under the 25 per cent  
12 plan is 107 cents.

13 MR. ESTEY: I thought that 85 was the  
14 minimum cost before the Board broke even, because 15 per  
15 cent equals administration, et cetera, and this one is  
16 86.

17 MR. MacDONALD: Actually, we are talking  
18 about a pure premium cost rate, sir.

19 MR. ESTEY: Not related?

20 MR. MacDONALD: But the 15 per cent is  
21 average. There are industries where it is less than that,  
22 and other industries where the average is up in the 20  
23 per cent range.

24 MR. ESTEY: What is the 105 per cent,  
25 where does that come from?

26 MR. MacDONALD: That is the algebra which  
27 the actuary has developed to make sure that the positives  
28 equal the minuses. I think we would have difficulty if  
29 we went beyond that point.

30 MR. ESTEY: Is the upshot of all this,







1 then, that the .67 is the result -

2 MR. MacDONALD: In fact, we are saying  
3 that the minimum rate that could be earned in this  
4 classification, is 83 cents, which is a dollar less the  
5  $16\frac{1}{2}$  refund ; and the maximum that could be charged is a  
6 dollar plus the 67 cents which is the additional charge.  
7 So the range in rates is from 83 cents to \$1.67.

8 Under the 50 per cent plan, the lowest  
9 rate is 67 cents which is therefore, a merit credit of  
10 33 cents. That compares with the maximum of 25 cents  
11 you could have under the Alberta Plan.

12 So this is the point I was making earlier,  
13 that under the 50 per cent experience rating plan in  
14 Ontario, you can get a greater credit than under the  
15 plan which was advocated from Alberta.

16 MR. ESTEY: What is that making the  
17 maximum for the 50 per cent?

18 MR. MacDONALD: In this case, as I have  
19 said, the maximum rate is 67 cents. The maximum rate  
20 chargeable is \$2.68.

21 MR. ESTEY: That is arrived at algebra-  
22 ically, to come out to \$2.68.

23 MR. MacDONALD: Right. In this particular  
24 plan, the plusses equal the minuses within one-quarter  
25 of one per cent.

26 MR. ESTEY: That is arrived at because  
27 the actuary has discovered 110 per cent will do it?

28 MR. MacDONALD: That is right. The  
29 examples we have given of actual firms, we have selected  
30 a firm which is not actually going to earn the preferred





1 rate, somewhere in the middle, but it does show that, in  
2 this particular case, we are again dealing with a firm  
3 that is in the classification where the assessment rate  
4 has been a dollar and where the average group cost rate  
5 has been 86 cents.

6 The merit credit for that firm, under the  
7 25 per cent plan, is 25 per cent of the difference between  
8 86 cents for the group and its own cost rate, which was  
9 43 cents, which gives you a refund in their case, of 10.75  
10 or a little over ten cents, and provides them with \$350.08  
11 credit.

12 Under the 50 per cent plan, the credit  
13 would be  $21\frac{1}{2}$  cents which gives them a \$700.15 credit.

14 Under the Alberta plan, the credit would  
15 be slightly greater than \$700; it would be \$814.13,  
16 because we have a firm that is in the middle range of  
17 accident costs. Had they been at preferred rate, they  
18 could have earned up to 33 cents credit.

19 Now, we have provided in example B, a  
20 firm with a three-year average cost rate of \$1.26, so  
21 that they are going to have a charge in this case, of  
22 25 per cent of the difference between \$1.26 and 86 cents,  
23 which is a ten cent charge, and provides, in their case,  
24 for a \$15,277.80 charge.

25 At 50 per cent, the merit charge becomes  
26 20 cents and produces an assessment charge of \$30,555.59.

27 MR. ESTEY: Is it a correct conclusion  
28 to draw from example B, that the Alberta Plan is not  
29 actuarially sound?

30 MR. MacDONALD: That is not a correct





1 assumption.

2 MR. ESTEY: But it does not come out to  
3 zero.

4 MR. MacDONALD: As I indicated yesterday,  
5 we had two choices. You have a plan in which you can  
6 make sure the plusses equal the minuses - refunds equal  
7 charges; or you load your basic assessment rate to the  
8 point where your reserves are protected by your methods.

9 MR. ESTEY: The Alberta one does not  
10 seem to come to zero.

11 MR. MacDONALD: Of course, we are only  
12 dealing with two firms. We have got to take -

13 MR. ESTEY: But the formula will not get  
14 you to zero, will it?

15 MR. MacDONALD: I think it would not do  
16 that unless you had a loading in your basic rates.

17 MR. ESTEY: Which you cannot tell from  
18 looking at this.

19 MR. MacDONALD: I cannot tell from this,  
20 no. Firm C, is an example of a firm whose cost rate is  
21 right on the same level as that of the group, and therefore,  
22 there is no refund or charge under either of the Ontario  
23 Plans or the Alberta Plan.

24 MR. ESTEY: Let us get on now to polls.  
25 Is there any method of ascertaining the willingness of  
26 the contributors to participate, do you know?

27 MR. MacDONALD: Not that I am aware of,  
28 Mr. Estey, no.

29 MR. ESTEY: What has the experience in  
30 Ontario been, as to the approval by vote by classes? Do







1 more classes approve when given the change to poll, or  
2 do more decline, when given the chance to poll, to come  
3 into these plans?

4 MR. MacDONALD: In the case of the 25 per  
5 cent plan, certainly the majority vote in favour when a  
6 plan is polled for.

7 In the case of the 50 per cent, it is in  
8 reverse; more vote against it than vote in favour.

9 I think the feeling of the employers is  
10 that their collective liability position is breached  
11 beyond the point at which they feel happy with it. There  
12 are some groups who have been polled three times and turned  
13 down experience rating all three times.

14 MR. ESTEY: If a business were looking  
15 for consistency of expenses from year to year, then the  
16 50 per cent plan would be less attractive to them, would  
17 it not?

18 MR. MacDONALD: Yes.

19 MR. ESTEY: And someone in the business  
20 of bidding on contracts, where they have to know their  
21 costs in bidding on a long term in contracts, I would  
22 think, would not go for the 50 per cent plan, because it  
23 swings off the insurance people too far. Has that been  
24 the experience of the Board?

25 MR. MacDONALD: Very few construction  
26 classifications have been interested in experience rating.  
27 As a matter of fact, the only one that does have experience  
28 rating is the business of road building.

29 MR. ESTEY: I suppose there, because their  
30 contracts are generally shorter of duration. Therefore,





1 they know their costs throughout the period of the contract,  
2 but if you were bidding on a long term contract, you  
3 would not vote for that 50 per cent plan, would you?

4 MR. MacDONALD: No, you would not. May  
5 I correct a statement I made there. I had forgotten there  
6 is a second one, which is the business of building bridges,  
7 sewer construction, and this sort of thing. Those are  
8 the only two. It is rate number 736, which is the road  
9 building classification; and rate number 753 which is  
10 the building of bridges, excavating, construction of  
11 sewers and subways, trenching, and this type of thing.

12 THE COMMISSIONER: That is what classi-  
13 fication?

14 MR. MacDONALD: That is rate 753, sir.

15 THE COMMISSIONER: Because the representa-  
16 tions that have been made to us on the incentive plan,  
17 were largely tied into this. Was it excavating?

18 MR. MacDONALD: Tunnelling, that is  
19 correct.

20 THE COMMISSIONER: Tunnelling work that  
21 was being done in municipalities, but then that is  
22 actually in existence as far as they are concerned.

23 MR. MacDONALD: In that classification,  
24 yes. It is not in existence in general construction.

25 THE COMMISSIONER: Have you finished with  
26 this, Mr. Estey?

27 MR. ESTEY: I just want to ask one  
28 question, Mr. MacDonald, not concerned with the elaborate  
29 arithmetic, but this problem which has been raised by  
30 several people here. Has the Board's experience been that





1 the 25 per cent plan and/or 50 per cent plan, has served  
2 the basic function of creating incentive for the employer  
3 to depress his safety and accident experience below the  
4 norm in the group, or is there no significant, traceable  
5 influence on the accident pattern by reason of the merit  
6 system?

7 MR. MacDONALD: Our experience has been  
8 that as far as the 25 per cent plan is concerned, it has  
9 not reduced the frequency rates or assessments rates. In  
10 the case of the 50 per cent plan, we have evidence that  
11 it has.

12 MR. ESTEY: All right. Concentrating on  
13 Alberta and Ontario - I take it you are not familiar with  
14 any other province's experience in this idea?

15 MR. MacDONALD: Basically, I think that  
16 the efficiencies needed in industry, have brought the  
17 majority of the employers to the point where they are  
18 giving adequate attention to safety, and all of the other  
19 efficiencies are related to that. Therefore, we are  
20 really going to be in the position of making refunds to  
21 the employers, but all generally, have done pretty well  
22 as much as they could.

23 Our own concern has been the very small  
24 percentage of employers that have not been paying proper  
25 attention to safety, and I think section 86(6a) have  
26 taken care of that group.

27 MR. ESTEY: That is the demerit system?

28 MR. MacDONALD: Yes.

29 MR. ESTEY: Thank you, Mr. MacDonald.

30 THE COMMISSIONER: Mr. MacDonald, you were







1 talking yesterday about the system instituted or recom-  
2 mended by Mr. Justice Tysoe in British Columbia, where he  
3 was tying pensions to the increased consumer index from  
4 year to year.

5 I rather gathered from his Report, that  
6 in one or more of the provinces there was some other  
7 system that had been adopted, and he referred to Nova  
8 Scotia. How does their basis of estimating pensions,  
9 there or anywhere, differ from that in Ontario?

10 MR. MacDONALD: I am not familiar with  
11 any difference, sir. I think it is a fact in some of  
12 the Maritime Provinces, that they have increased certain  
13 of their pensions as a charge to Consolidated Revenue Fund,  
14 rather than as a charge to employers, but whether or not  
15 they have any formal system of recognizing -

16 THE COMMISSIONER: They have done so.

17 MR. MacDONALD: They have increased certain  
18 of their pensions, retroactively as a charge to Consoli-  
19 dated Revenue Fund, rather than as a charge to employers.  
20 Whether or not they have any formal system of determining  
21 the point at which they should make another change, I  
22 would not be aware.

23 THE COMMISSIONER: What I have regard to  
24 is that he seemed to indicate that in arriving at the  
25 amount that should be set aside for pensions, that they  
26 were to be on a somewhat heavier basis, having in mind  
27 the fact that this consumer price index was increasing.

28 MR. MacDONALD: There was a specific  
29 amendment which did adjust disability and depedency pensions  
30 retroactively, working them out to a certain basic level,





1 but it was an amendment to their Act. It was not a for-  
2 mula such as the one we were talking about yesterday.

3 THE COMMISSIONER: Does that complete  
4 your -

5 MR. MacDONALD: Yes, it does.

6 MR. ESTEY: I do not see anything in the  
7 Nova Scotia Act to authorize the merit plan, unless it  
8 is disguised under something else.

9 Mr. Commissioner, in order to give some  
10 people present an idea on how we are going to get back  
11 on the rails from some of the detours we took yesterday,  
12 Mr. Draper was presenting the safety association's position  
13 of the Board, and we did not finish with that.

14 We have the Pulp and Paper Association here  
15 today, and we have Mr. Kerr to be heard from.

16 I propose to finish with Mr. Draper now,  
17 and then switch over to the Pulp and Paper Association,  
18 and then we will have Mr. Kerr.

19 Mr. Draper, you dealt with two things  
20 yesterday, as I remember it: The safety associations and  
21 the Board's role in that operation; then you dealt with  
22 the enforcement on accident prevention measures.

23 Now, taking them in that order, under  
24 safety associations, I think you told us that the average  
25 cost of the safety associations was 3.8 per cent of the  
26 assessment dollar.

27 MR. DRAPER: In 1965.

28 MR. ESTEY: And while 1966 would show an  
29 increase, I take it that is substantially the pattern on  
30 which you are operating now?





1 MR. DRAPER: Yes.

2 MR. ESTEY: We have heard a great deal  
3 here about the need for safety in the construction industry,  
4 but unfortunately, we have not heard from the Construction  
5 Safety Association. Can you tell us whether the percentage  
6 of the assessment dollar from that industry expended  
7 through the safety association, is more or less than 3.8  
8 per cent?

9 MR. DRAPER: It is more; it is 5.21 per  
10 cent.

11 MR. ESTEY: And of that, a third to a  
12 half, as I remember it, is expended through television?

13 MR. DRAPER: It was last year.

14 MR. ESTEY: What has the practice been in  
15 1966 in that regard?

16 MR. DRAPER: I am sorry, I meant in 1966,  
17 in this current year, it was at that level. It was at  
18 a lower level in the preceding year.

19 MR. ESTEY: Do you have any explanation  
20 or indication as to why that association has gone in so  
21 heavily to the type of safety education one gets over  
22 television, in contrast to the efforts being made through  
23 trained field supervisors in the logging and forestry and  
24 mining associations?

25 MR. DRAPER: Sir, I have discussed this  
26 with the Director of the Safety Association and with their  
27 management. Their Directors decided that they had a  
28 problem in reaching a transient work force, and that they  
29 felt that this problem in their industry was more marked  
30 than in our industries, in that people would move from







1 job to job or from one company to another.

2 They were also faced with a greater language  
3 barrier than most other industries, in that they had a  
4 lot of immigrant people working for them, who had recently  
5 arrived in the country.

6 In those circumstances, in order to cover  
7 all of their work force, they determined in their wisdom,  
8 that one of the ways, the best way to do this, to get  
9 broad, overall coverage, was to approach their people  
10 when they were at home watching television. Their tele-  
11 vision messages are directed at this audience, to get them  
12 at home.

13 However, they do have courses on the job  
14 on-site courses, all over the province, and they do bring  
15 in supervisors and trained men in the Arcade Building.  
16 As a matter of fact, they normally run two courses an  
17 evening. I believe they have two going on right now in  
18 the evening, as well as during the day. So they are doing  
19 both types.

20 MR. ESTEY: These are foremen or super-  
21 visors, sent by the construction companies to your courses  
22 in Toronto?

23 MR. DRAPER: That is correct.

24 MR. ESTEY: And, presumably, they are  
25 paid while they take these courses?

26 MR. DRAPER: This is normally the case.

27 MR. ESTEY: How long are they here?

28 MR. DRAPER: They could be here, if they  
29 are local people, they may come down in the evenings and  
30 they could be here seven weeks on that; or people who





1 come in from out of town (and there are not that many),  
2 they could be here for a week.

3 Construction Safety, on the other hand,  
4 will send teams of instructors out of town, and they have  
5 a considerable number of courses going on all over the  
6 province in local areas.

7 MR. ESTEY: And that is the same course  
8 that is given here in the evenings?

9 MR. DRAPER: Largely so.

10 MR. ESTEY: How many employees are there  
11 in the firms represented by the Construction Association,  
12 covered by the Workmen's Compensation Act?

13 MR. DRAPER: I am sorry, sir, I cannot  
14 give you that answer. Mr. Sampson - 210 thousand,  
15 approximately.

16 MR. ESTEY: So that you are spending about  
17 two dollars per employee per year on television?

18 MR. DRAPER: Yes, sir.

19 MR. ESTEY: I was going to ask you about  
20 the language question. These television notices are  
21 about 60 seconds or less in duration?

22 MR. DRAPER: Yes.

23 MR. ESTEY: I would have thought that for  
24 a person who does not know much of the language, a sudden  
25 barrage of English over 60 seconds and then it is gone,  
26 might be really difficult to get much out of?

27 MR. DRAPER: It would be, but many of  
28 them depend, really, in the main, on the theme of the  
29 picture.

30 Construction Safety also produces safety





1 training films, and in one of the more recent ones, they  
2 had Buster Keeton as the principal player and very little  
3 of it was spoken and most of it was done by mime, so that  
4 it would apply to all languages.

5 MR. ESTEY: How many languages does the  
6 Construction Association print their bulletins, posters,  
7 in?

8 MR. DRAPER: I believe three, sir -  
9 Italian, French and English and, I believe, some in  
10 Portuguese.

11 MR. ESTEY: And the films that you use,  
12 are they in English?

13 MR. DRAPER: They are all in English. In  
14 many cases they have been run with sound tracks in other  
15 languages as well.

16 MR. ESTEY: You have dubbed sound tracks  
17 with other languages?

18 MR. DRAPER: Yes.

19 MR. ESTEY: To change the subject, how  
20 about schedule 2 employers? How do you keep track of the  
21 safety efforts, if any, by them?

22 MR. DRAPER: Safety education is their  
23 responsibility, sir, under schedule 2. The only cases  
24 where we do get into safety education on schedule 2, is  
25 by direct application. That is, these people in the  
26 electrical safety, employers, in many cases, will submit  
27 their workmen for training at the training centre, where  
28 they will be charged for this service by the Association.

29 MR. ESTEY: And I take it, in that par-  
30 ticular class where the utility sub-contracts its line







1 construction and so on, in fact they are using schedule  
2 1 employees to do that kind of work anyway?

3 MR. DRAPER: In some cases, but in some  
4 cases the municipalities have their own men who are  
5 climbing poles.

MR. ESTEY: And they are Schedule 2?

6 MR. DRAPER: And they are trained by  
Electrical  
7 / Utilities Safety Association.

8 MR. ESTEY: Now, since the schedule 2 employers are  
9 paying the expense of compensation, medical aid, Board  
10 administration, I take it that, based on that principle,  
11 the Board does not require them to establish safety  
12 associations?

13 MR. DRAPER: That is correct.

14 MR. ESTEY: Under the present wording of  
15 the statute, could the Board do that? It is limited to  
16 schedule 1, is it not?

17 MR. DRAPER: It is limited to schedule 1  
18 at present, sir, yes.

19 MR. ESTEY: In fact, do schedule 2 employ-  
20 ers operate a safety program in the same general way that  
21 the Board does through its associations?

22 MR. DRAPER: To the best of my knowledge,  
23 I have spoken personally, for instance, with Bell Tele-  
24 phone Company and they have a very active safety program  
25 and safety department within their company.

26 MR. ESTEY: Of course, there are now  
27 regulations of the Department of Labour as to the shield-  
28 ing of equipment and everything else, applying to schedule  
29 2, the same as everybody else. The only difference is,  
30 you do not have the Board-administered association?





1 MR. DRAPER: That is correct.

2 MR. ESTEY: You mentioned the training  
3 programs which you operate. Has there been any suggestion  
4 made that where an employer or an industry has a particu-  
5 larly bad record of accidents, being compelled to submit  
6 its foremen and supervisors to safety education?

7 MR. DRAPER: No, sir. The question of  
8 compulsion does not come into it. We do not have the  
9 power.

10 MR. ESTEY: You only have the indirect  
11 compulsion of the double assessment and the very expensive  
12 result of the companies not improving their safety record.

13 MR. DRAPER: That is correct.

14 MR. ESTEY: And you have no need, I take  
15 it, for obligatory training of the supervisory personnel  
16 in safety?

17 MR. DRAPER: There are no provisions in  
18 the Act for it, sir.

19 MR. ESTEY: That we know. I take it it  
20 has not come up?

21 MR. DRAPER: No.

22 MR. ESTEY: As a matter of urgent dis-  
23 cussion or proposal?

24 MR. DRAPER: No.

25 MR. ESTEY: This Labour Safety Council  
26 that we have heard about two or three times now, you have  
27 seven labour organization representatives, seven safety  
28 associations and a chairman.

29 MR. DRAPER: Yes, sir.

30 MR. ESTEY: The Board does not have any





1 representative on that Council. Has that been discussed?

2 MR. DRAPER: No, sir.

3 MR. ESTEY: Whether there would be any  
4 merit in that?

5 MR. DRAPER: It has not been discussed.

6 MR. ESTEY: The seven labour representa-  
7 tives obviously are trade union nominated?

8 MR. DRAPER: Yes, sir.

9 MR. ESTEY: Do they cover the trade unions  
10 in the same brackets as the seven safety associations?

11 MR. DRAPER: It is my understanding that  
12 that was the intent when they were appointed, and I think,  
13 in general, that is the case.

14 MR. ESTEY: That is, the United Automo-  
15 bile Workers would have a nominee on there, because they  
16 are substantial representatives of the people under those  
17 classifications.

18 MR. DRAPER: I don't know whether United  
19 Automobile Workers, as an entity, has a representative.  
20 The I.A.P.A. Council, the Accident Prevention Association's  
21 past president, Mr. Henley is a member of the Council and  
22 as one of the members from the labour movement, would  
23 represent the manufacturing industries, on the Council.

24 MR. ESTEY: I see. There may not be a  
25 precise matching, but the principle is to obtain represen-  
26 tation on that side of the Council in the same way as  
27 you have on the safety associations side.

28 MR. DRAPER: Yes, sir.

29 MR. ESTEY: What percentage of the people  
30 covered by Workmen's Compensation, if you know this, are







1 represented by a trade union?

2 MR. DRAPER: I do not know that, sir.

3 MR. ESTEY: Do the Board's records show  
4 that?

5 MR. DRAPER: Not to my knowledge.

6 MR. ESTEY: We have heard that the O.F.L. -

7 MR. ANDERSON: If I may, there was a  
8 Department of Labour publication some time ago, which  
9 quoted the trade union membership in Ontario as 23 per  
10 cent of the labouring force.

11 MR. ESTEY: Thank you. O.F.L. told us  
12 that they had four to 500 thousand, if my memory is  
13 correct, in Ontario and covered by the Act. How many  
14 have we here, how many workmen are covered by the Workmen's  
15 Compensation Act?

16 MR. MacDONALD: This year, 2,200,000.

17 MR. ESTEY: So that the figure of 23 per  
18 cent, perhaps is in the neighborhood. The reason I asked  
19 the question, I was wondering what system, if any, could  
20 be used to have those people represented in the safety  
21 council, because the ones who are not represented by the  
22 trade unions appear to be in the majority.

23 MR. DRAPER: It would so appear.

24 MR. ESTEY: Mr. Draper, I would like to  
25 turn to your memorandum headed "Enforcement in Accident  
26 Prevention". You have a significant sentence on the first  
27 page which says:

28 "The aim of increasing assessments is to  
29 encourage greater interest in safety  
30 education and thus prevent accidents."





1 MR. DRAPER: That is correct.

2 MR. ESTEY: I take it from that, that on  
3 occasion, at least, the increase of assessment is not  
4 required to balance the Board's books, as it were, but is  
5 punitive.

6 MR. DRAPER: This statement has already  
7 been made, I believe, Mr. Estey, by Mr. MacDonald, when he  
8 indicated that the purpose of the double assessment was  
9 not in order to raise funds.

10 MR. ESTEY: But to drive down the claims  
11 coming to the Board from the source in question.

12 MR. DRAPER: That is correct.

13 MR. ESTEY: And that is one of your  
14 strongest means of getting safety, the necessity for  
15 safety education, across to the employers covered by the  
16 Act, I take it.

17 MR. DRAPER: In general 86 (6a) has been  
18 accepted by the safety associations of Ontario and their  
19 directorate, as being an extremely useful tool in reducing  
20 the accident toll and making the companies safety-conscious.  
21 It is a very strong deterrent.

22 MR. ESTEY: Now, apart from that deterrent,  
23 is there any procedure available to the safety associations,  
24 the Board, apart from member employers, to bring about  
25 the adoption of safety procedures, which they think would  
26 improve their safety record, that is, guards on specific  
27 kinds of machine.

28 MR. DRAPER: By education?

29 MR. ESTEY: No, by establishment of rules.

30 MR. DRAPER: No, sir, we have not.





1 MR. ESTEY: Do you have any regular liaison  
2 organization or director with the Department of Labour,  
3 bridging the gap between the two, the educational units  
4 on the one side, and enforcement on the other, on this  
5 subject of regulations for safety.

6 MR. DRAPER: This is discussed in general  
7 by the Director of Safety and Technical Services of the  
8 Department of Labour, by the Executive Director of the  
9 Labour Safety Council and by myself, at frequent meetings  
10 which the three of us hold, so that we may discuss problems  
11 of mutual interest within the fields of education, enforce-  
12 ment and the advisory body to the Minister

13 MR. ESTEY: Now, that is a three-legged  
14 stool, because the Department of Labour is not,  
15 I suppose the Department of Labour is not,  
16 right?  
17

18 MR. ESTEY: They advise the M  
19 Labour, but I take it from what you have said, that the  
20 Board does not have a sort of legislative committee or  
21 rules committee, which primarily directs its attention  
22 to the advising of the Department of Labour on the improve-  
23 ment by establishment of rules in connection with safety  
24 devices or safety procedures, other than education

25 MR. DRAPER: That is correct, sir. I have  
26 been invited and have, in the past, sat in on the meetings  
27 of the Labour Safety Council, so that I am aware of what  
28 they are doing. On the other hand, on the question of  
29 safety education or on the question of recommendations  
30 for guarding, it may be remembered that the members of the







1 Labour Safety Council, several of them are either presently  
2 serving presidents of a safety association, or the im-  
3 mediate past-president. Therefore, they have a very  
4 strong link with the safety association.

5 When the safety association field men may  
6 spot something that does require immediate action, or  
7 they could make significant recommendations, as to how  
8 to improve guarding, there is in existence, a channel  
9 where this could be directed to the Minister of Labour,  
10 through the Labour Safety Council, through their own  
11 members, or directly from the association to myself and  
12 directly, then, to the Department of Labour.

13 MR. ESTEY: The former channel you des-  
14 cribe, consisting of going through the two layers of a  
15 voluntary part-time people, to a voluntary part-time  
16 council on the advisory basis to the Minister of Labour;  
17 but the latter channel you describe, goes through profes-  
18 sional help and people who are permanently employed.

19 MR. DRAPER: Yes, sir.

20 MR. ESTEY: I am directing my attention  
21 not at the voluntary part-time administrator of a safety  
22 association serving a voluntary part-time advisory board;  
23 I was more interested in, does the Board itself, within  
24 its own structure, have any regular organ which critically  
25 reviews the Department of Labour requirements for industry  
26 in regard to safety? I think you have answered that  
27 they do not have any permanent structure within the Board,  
28 set up for this purpose.

29 MR. DRAPER: They do not have.

30 MR. ESTEY: In contrast to that, you have





1 the situation prevailing in the Province of British  
2 Columbia and the Province of Alberta, to some extent,  
3 where the Board has its own code of rules and its own  
4 machinery for the application of those rules (to avoid  
5 the word "enforcement"). Do you have any experience in  
6 your position, as to how this worked out in these other  
7 Workmen's Compensation Boards?

8 MR. DRAPER: I have no such personal  
9 experience.

10 MR. ESTEY: Do you have any national  
11 liaison body of Workmen's Compensation Boards who meet  
12 annually or regularly?

13 MR. DRAPER: Yes, there is.

14 MR. ESTEY: In the course of that - I  
15 take it you attend these meetings?

16 MR. DRAPER: I have not yet, sir. I have  
17 not been with the Board very long.

18 MR. ESTEY: You are a new man, so that  
19 you don't know about, all right. One subject we should  
20 perhaps hear about. In these safety associations, sir,  
21 the constitution which is prescribed by the Board saying  
22 how many directors they will have and how often they are  
23 elected and so on, -

24 MR. DRAPER: Each safety association has  
25 its own charter.

26 MR. ESTEY: They adopt their own?

27 MR. DRAPER: They have had their own;  
28 they are in existence.

29 MR. ESTEY: But I am not talking about  
30 the charter; I am talking about the by-laws and the





1 machinery of operation. Does the Board establish that?

2 MR. DRAPER: No, sir.

3 MR. ESTEY: For them?

4 MR. DRAPER: No, sir.

5 MR. ESTEY: They adopt their own?

6 MR. DRAPER: Yes, sir.

7 MR. ESTEY: How often are the Boards of  
8 Directors elected?

9 MR. DRAPER: In most cases, annually. I  
10 think it is possible that some of them may be every two  
11 years, but I believe it is an annual election.

12 MR. ESTEY: There is no power in the Board  
13 to require them to be elected annually?

14 MR. DRAPER: No, sir.

15 MR. ESTEY: How big are these Boards of  
16 Directors?

17 MR. DRAPER: They vary from 60 to about  
18 187.

19 MR. ESTEY: 187 directors in one associa-  
20 tion?

21 MR. DRAPER: Yes, sir.

22 MR. ESTEY: Which one is that?

23 MR. DRAPER: Industrial Accident Preven-  
24 tion Association.

25 MR. ESTEY: How often does that body meet,  
26 when it can find a hall?

27 MR. DRAPER: I would ask Mr. Anderson to  
28 answer.

29 MR. ANDERSON: Mr. Commissioner, with  
30 your permission, the Industrial Accident Prevention







1 Association is a federation of nine associations, all of  
2 which are chartered under the Corporations Act of the  
3 province. Each one of them elects its Board of Directors  
4 on an annual basis in nine separately federated associa-  
5 tions.

6 The Board of Directors meet three times a  
7 year in their own class groups, and they deal with the  
8 development of safety codes for their own industries, the  
9 prevention of accidents that happen in their own indus-  
10 tries and things of this nature.

11 The Directors of all the nine associations  
12 meet twice a year, and the Directors of all of these  
13 nine associations are elected by their own individual  
14 annual meeting, as Directors of the Industrial Accident  
15 Prevention Association.

16 They then elect, once a year, in June, an  
17 administrative committee of 20 people which administers  
18 the affairs, meeting nine times a year.

19 MR. ESTEY: Mr. Anderson, before you sit  
20 down, are these nine associations geographically built up?

21 MR. ANDERSON: No, they are built up by  
22 trade. They represent the woodworking industry, the  
23 metal trades, ceramics and stone, food products, chemical  
24 industry, the leather, rubber and tanning industry,  
25 textile industry and the printing industry.

26 MR. ESTEY: Are these associations centred  
27 in Toronto, head offices in Toronto?

28 MR. ANDERSON: All head offices are in  
29 Toronto. The headquarters are in my office, and I am  
30 Secretary-Treasurer of each of these associations.





*Nethercut & Young*

*Toronto, Ontario*

2585

1 MR. ESTEY: Do these Boards of Directors  
2 meet regularly?

3 MR. ANDERSON: Yes, they do, three times  
4 a year on a regularly scheduled basis.

5 MR. ESTEY: Are these regulations, by-laws  
6 and so on, of these nine associations, filed with or  
7 submitted to the Board in any way?

8 MR. ANDERSON: Not to my knowledge in  
9 the past, filed with the Board. They are all filed with  
10 the Provincial Secretary.

11 MR. ESTEY: I see where, under the section  
12 of the Act, the Board approves the regulations and rules  
13 of the association and they may not go below the I.A.P.A.

14 MR. ANDERSON: This goes back, I think,  
15 to an old section that was in the Act, that the safety  
16 association might form rules which, when approved by the  
17 Board and the Lieutenant Governor in Council, would  
18 become binding on their members, and there were such  
19 rules, perhaps, in the early days; but when the Provincial  
20 Regulations Act came into effect, somewhere around 1947,  
21 it is my understanding that it was then decided that no  
22 association such as ours could pass regulations that  
23 would be binding on its own members; they would have  
24 to be regulations filed under the Regulations Act.

25 MR. ESTEY: Do these nine component  
26 organizations have any staff?

27 MR. ANDERSON: No, all staff is incurred  
28 under the name of the Industrial Accident Prevention  
29 Association. The charter of the Industrial Accident  
30 Prevention Association authorizes this and for any





1 associations organized under the terms of the Workmen's  
2 Compensation Act to promote accident prevention in their  
3 particular industry.

4 MR. ESTEY: So that these nine component  
5 organizations would not have a budget in safety and  
6 accident prevention?

7 MR. ANDERSON: No, because it is all  
8 consolidated by - all the budget is administered by our  
9 administrative committee.

10 MR. ESTEY: How often would the 187 meet?

11 MR. ANDERSON: Twice a year, in June  
12 and in November.

13 MR. ESTEY: Everybody who is a director  
14 of the nine is a director of the big one?

15 MR. ANDERSON: That is correct.

16 MR. ESTEY: How do you elect the Presi-  
17 dent of the I.A.P.A.?

18 MR. ANDERSON: The President of the Associa-  
19 tion is elected at the annual meeting in April, along  
20 with two Vice-Presidents and the Honourary President, and  
21 elected by the membership at large.

22 MR. ESTEY: Not the 187?

23 MR. ANDERSON: No, a proxy statement is  
24 sent to every industry registered with us under the  
25 Compensation Act in the classes represented, and they  
26 either come to that annual meeting and vote in person,  
27 or they send in a proxy.

28 MR. ESTEY: And at the same time you  
29 elect the nine Presidents of the component organizations?

30 MR. ANDERSON: The nine Chairmen (as we







1 call them) of the component associations, are elected by  
2 their association at their own annual meeting.

3 MR. ESTEY: So that you have ten annual  
4 meetings to elect the Boards?

5 MR. ANDERSON: That is right.

6 MR. ESTEY: And one of them elects the  
7 President of the I.A.P.A.?

8 MR. ANDERSON: Right.

9 MR. ESTEY: And the other officers?

10 MR. ANDERSON: Right.

11 MR. ESTEY: Do the other associations ever  
12 have anything like that, or are they all simply associa-  
13 tions with their own Board of Directors and offices?

14 MR. DRAPER: They are all, to my knowledge,  
15 associations with their own Board of Directors and offices.

16 MR. ESTEY: And the rules in operation  
17 are those, I take it, approved from time to time by the  
18 Board under the Act.

19 MR. DRAPER: They have not yet been  
20 submitted. The Board, as such, does not approve rules  
21 and regulations.

22 MR. ESTEY: Thank you very much.

23 Mr. Commissioner, yesterday Mr. Anderson  
24 was good enough to say he would give us a copy of the  
25 Annual Report of his large association. I have that here,  
26 which I think we might now mark as an Exhibit, the I.A.P.A.  
27 Annual Report for 1965.

28 EXHIBIT NO. 42: 1965 Annual Report of the  
29 Industrial Accident Prevention  
30 Association.





1  
2 MR. ESTEY: In the discussion yesterday  
3 and the day before, some debate arose amongst, and with  
4 witnesses in connection with safety regulations under the  
5 Construction Safety Act and their opposite number under  
6 the Industrial Safety Act. In the course of that, Mr.  
7 Gibson pointed out to us that there are two regulations  
8 which he would like and which I would think, respectfully,  
9 should be on the record. The first is regulation 327  
10 under the Industrial Safety Act, which provides that:

11 "Every employer shall insure that  
12 steps effectively, in the opinion of  
13 an inspector under the Act, are taken  
14 to prevent injury to the hearing of  
15 a person in an industrial establishment  
16 by reducing or eliminating noise from  
17 any machine or device."

18 That is the basic noise regulation. On safety devices,  
19 the basic regulation under the same Act, the Industrial  
20 Safety Act of Ontario, is number 35 which prescribes that:

21 "No person in an industrial establishment  
22 shall fail to use or wear any protective  
23 clothing or device required in this  
24 regulation."

25 That is a general provision, comparable to regulations  
26 12, 13, 14 and 15 of the Construction Safety Act.

27 Those are read in because some of the  
28 witnesses have the idea that there were no such regula-  
29 tions.

30 Before we go on with the rest of the Board





1 matters, it may be convenient for the Pulp and Paper  
2 Association people to come forward.

3 THE COMMISSIONER: Is this the Ontario  
4 Pulp and Paper Association?

5 MR. ESTEY: This is the Ontario Pulp and  
6 Paper Makers Safety Association.

7 MR. GRAINGER: That is correct.

8 MR. ESTEY: Would you be good enough to  
9 put your name on the record?

10 MR. GRAINGER: My name is E. Edward  
11 Grainger, and I am Vice-President (Woodlands) Abitibi  
12 Paper Company, and President of the Ontario Pulp and  
13 Paper Makers Safety Association.

14 THE COMMISSIONER: Yes, Mr. Grainger,  
15 do you want to follow your brief?

16 MR. ESTEY: That has been read in. You  
17 will remember, Mr. Commissioner, that was read in by Mr.  
18 Scott two days ago.

19 THE COMMISSIONER: Quite right, it was.

20 MR. ESTEY: There were some matters Mr.  
21 Scott did not feel should be discussed because he was not  
22 one of the policy-making people of the Association.

23 MR. GRAINGER: My understanding was there  
24 were some questions that I can perhaps answer and that  
25 is why I am here. I have no presentation to make.

26 MR. ESTEY: All right, Mr. Grainger. I  
27 will tell you what came up in the course of our discussions.  
28 The Ontario Pulp and Paper Makers Safety Association, as  
29 we understand it, comprises those manufacturers who have  
30 both woodland operations and who also operate paper-making







1 and pulp-making facilities.

2 MR. GAINGER: That is true.

3 MR. ESTEY: And in the operation of your  
4 plant, pulp and paper plants, you come under, in part,  
5 regulations of the Department of Labour.

6 MR. GRAINGER: Yes.

7 MR. ESTEY: I understand that in your  
8 woodland operations you come under the regulations of the  
9 Department of Lands and Forests, the Loggers Safety Act.

10 MR. GRAINGER: Yes, Loggers Safety Act.

11 MR. ESTEY: As regards this safety associa-  
12 tion, do they deal only with your plant operations,  
13 or both your plants and woodland?

14 MR. GRAINGER: No, with both.

15 MR. ESTEY: Both plant and woodland  
16 operations?

17 MR. GRAINGER: Yes.

18 MR. ESTEY: Of companies who operate  
19 pulp and paper-making facilities?

20 MR. GRAINGER: Well, the Association is  
21 comprised of both types of pulp and paper makers; those  
22 who are just running converting plants and those who have  
23 wood processing in their program. But the Association  
24 deals with all members of the Association.

25 MR. ESTEY: Let me put this question. Do  
26 you have any companies that go out and cut trees down on  
27 your timber limits and drag them in and convert them?

28 MR. GRAINGER: Yes, that is right.

29 MR. ESTEY: Also you have employers who  
30 do not cut any trees down but buy them, or sub-contract





1 it, and convert in plants?

2 MR. GRAINGER: Yes, converting, working  
3 from pulp.

4 MR. ESTEY: In other words, you have  
5 people who just convert, and you have people who go all  
6 the way back to the trees?

7 MR. GRAINGER: Yes, we also have members  
8 of the Association who are involved in both processes.  
9 I mean, they have companies, they have plants which are  
10 converting around them, and they have also plants which  
11 process wood. There is not only integration among  
12 Association members, but the companies are integrated as  
13 well.

14 MR. ESTEY: Let us keep it clear. What  
15 do you call the part of your operation which consists of  
16 bringing the trees out?

17 MR. GRAINGER: That is the woodland depart-  
18 ment.

19 MR. ESTEY: After we get the tree on the  
20 ground and take it to the first plant, what is that,  
21 converting plant?

22 MR. GRAINGER: No, converting plant, in  
23 our terminology, is one which does not work with wood at  
24 all.

25 MR. ESTEY: What is the first plant?

26 MR. GRAINGER: Manufacturing starts at  
27 the mill entrance; processing of the wood, preparing  
28 pulp and going through manufacture to making pulp for  
29 paper.

30 MR. ESTEY: So that you have a pulp-making





1 plant, woodland operation, and then what is the next  
2 stage, paper-making plant?

3 MR. GRAINGER: Yes.

4 MR. ESTEY: That is what you call converter?

5 MR. GRAINGER: Yes.

6 MR. ESTEY: Some companies have all three  
7 operations?

8 MR. GRAINGER: They do.

9 MR. ESTEY: Some have only one on the  
10 plant end?

11 MR. GRAINGER: Yes.

12 MR. ESTEY: Some have two?

13 MR. GRAINGER: Some have two.

14 MR. ESTEY: But I take it that none of  
15 your members have only woodland operations?

16 MR. GRAINGER: No.

17 MR. ESTEY: Now, in respect to their  
18 woodland operations, does the Safety Association that  
19 you are now speaking for, represent them, or is it the  
20 other safety association, the Forest Products Accident  
21 Prevention Association, that applies to their woodlands  
22 operation?

23 MR. GRAINGER: No, the members of this  
24 Association, with possibly some exceptions, the Ontario  
25 Pulp and Paper Makers Safety Association, look to that  
26 Association to represent them in matters of safety, not  
27 only in the woods but in the mills as well.

28 MR. ESTEY: But whereas, if a company only  
29 had woodland operations, they would be members of the  
30 Forest Products Accident Prevention Association -







1 MR. GRAINGER: That is true.

2 MR. ESTEY: So, to some extent, there is  
3 a little overlap?

4 MR. GRAINGER: To some extent, yes.

5 MR. ESTEY: Do most of your members have  
6 woodlands operations?

7 MR. GRAINGER: No. Well, if I may refer  
8 to Mr. Scott again, I don't know how we would evaluate  
9 that.

10 MR. SCOTT: No, I would say the minority  
11 have woodland operations. There are approximately 85  
12 pulp and paper mills, converting plants, in the class 2  
13 membership, and of those, approximately 17 have woodland  
14 operations.

15 MR. ESTEY: About 85 altogether?

16 MR. SCOTT: Yes.

17 MR. ESTEY: Now, Mr. Grainger, these 85  
18 operating their pulp plants and their paper plants, have  
19 large work forces, and they work inside a plant. I am  
20 wondering why they are all included in the Industrial  
21 Accident Prevention Association, along with the automobile  
22 plants, foundries and all the other manufacturing facilities.  
23 Why are they segregated like that?

24 MR. GRAINGER: Well, I don't know if I  
25 could answer that.

26 MR. ESTEY: Any logical reason for it  
27 that occurs to you as a member of that Association, to  
28 separate apart a little sect, as it were?

29 THE COMMISSIONER: I suppose this is the  
30 way it has grown up, maybe from nine different companies





1 that finally composed it.

2 MR. GRAINGER: I am not too familiar with  
3 that part of the history. I may say nothing succeeds  
4 like success, and if our formula is successful, I think  
5 we should continue it.

6 MR. ESTEY: That was my next question.  
7 Whatever its origin, it works.

8 MR. GRAINGER: Yes.

9 MR. ESTEY: I take it you think it works  
10 better as a separate entity than the tenth component  
11 association of the I.A.P.A.

12 MR. GRAINGER: I would think so, yes.

13 MR. ESTEY: Before we get into the actual  
14 operations of the thing, do you have a Board of Directors  
15 which meets periodically in Toronto or where does it meet?

16 MR. GRAINGER: Yes, we have a Board of  
17 Directors comprised of 31 members at the present time.  
18 We have director's meetings once a month here in Toronto.  
19 Not all directors attend all meetings, but there is,  
20 generally, pretty good representation. We have an annual  
21 meeting once a year.

22 MR. ESTEY: Would most of your members'  
23 operations be concentrated in the north, or is there some  
24 in the south of Ontario?

25 MR. GRAINGER: Not necessarily. A good  
26 many of these converting plants I referred to are in the  
27 southern Ontario area.

28 MR. ESTEY: Thorold, for example, and in  
29 that area, you have some.

30 MR. GRAINGER: Yes.





1 MR. ESTEY: So that your directors, I  
2 take it, would come from all parts of the province?

3 MR. GRAINGER: That is true, they do.

4 MR. ESTEY: You would have a fairly widely  
5 scattered directorship?

6 MR. GRAINGER: The directorate is designed  
7 to have that geographical distribution.

8 MR. ESTEY: And how long do they serve?  
9 What is the term of a director?

10 MR. GRAINGER: It varies, depending on  
11 the annual election and depending on the representation  
12 we seek. Some people may serve for a good many years.  
13 We try to alternate. It depends a great deal on the  
14 people who are occupying key positions on the companies  
15 they represent. We endeavour to involve as many top  
16 management people as we can on the Board of Directors.  
17 Consequently, there are changes from time to time, and  
18 we try to put on the people who are in the top positions  
19 of management.

20 MR. ESTEY: Is this a kind of selective  
21 democracy, that you get geographical representation and  
22 you also get the men you want from the organizations?

23 MR. GRAINGER: That is true.

24 MR. ESTEY: In your operations, I see  
25 that your annual budget, or your actual payments, your  
26 cash last year amounted to about \$51 thousand?

27 MR. GRAINGER: Yes.

28 MR. ESTEY: What does the Association do  
29 with that money?

30 MR. GRAINGER: The money is paid for







1 salaries of the staff and travelling expenses, preparation  
2 of material, and for certain safety programs, material  
3 which is available to the members of the Association.

4 MR. ESTEY: How large is the staff?

5 MR. GRAINGER: We have three members of  
6 the staff, plus two girls doing stenographic work.

7 MR. ESTEY: Do these staff members go  
8 to the different plants on their educational work end of  
9 it?

10 MR. GRAINGER: Yes, the three male members  
11 of the staff are quite active in attending field functions,  
12 visiting plants and so on.

13 MR. ESTEY: What do these field functions  
14 consist of, what do they do when they get to your plants?

15 MR. GRAINGER: Well, it might be a visit  
16 at the request of the management of the plant, just to  
17 see their operations, to help them.

18 MR. ESTEY: Do they instruct the foremen  
19 and supervisors in safety?

20 MR. GRAINGER: They could. During the  
21 past two years we have started a special course of in-  
22 struction of supervisors.

23 MR. ESTEY: Where do you run that?

24 MR. GRAINGER: We run it at the plants,  
25 generally speaking.

26 MR. ESTEY: Who takes that course?

27 MR. GRAINGER: We have one member of the  
28 staff who has been trained rather extensively in giving  
29 instruction courses. We have another member of the staff,  
30 just recently added, who will carry on the same type of





1 work. The instruction is not only directed to the foremen  
2 and supervisors, but the instruction is to the people who  
3 will, in turn, instruct. We hope that the supervisors  
4 who attend these courses, will, themselves, pick up certain  
5 techniques and certain knowledge by which they can carry  
6 on the instruction.

7 MR. ESTEY: By which they then train  
8 the men to do the work.

9 MR. GRAINGER: That is right.

10 MR. ESTEY: I take it from the size of  
11 your budget, that your main effort is through this in-the-  
12 field education by your own staff and by your member  
13 staffs rather than television and radio and posters.

14 MR. GRAINGER: The main effort, it is  
15 true. I would like to emphasize our effort is in educa-  
16 tion, but the main effort that has other implications,  
17 the main effort of the staff is to assist the companies  
18 themselves in developing their own safety program. Educa-  
19 tion is just one means of doing it. Their purpose in  
20 life is to help companies to put out more effective  
21 safety programs.

22 MR. ESTEY: Mr. Grainger, or Mr. Scott,  
23 can you tell me whether the budget is in the neighborhood  
24 of 3.8 per cent of assessment that they receive, as the  
25 average of your safety association?

26 MR. GRAINGER: I think it is somewhat  
27 less than that. I will do a quick calculation. I think  
28 it is closer to 2 per cent.

29 MR. ESTEY: What are your rate classifica-  
30 tions, do you know?





1 MR. GRAINGER: We have two different  
2 rate classifications. One, of course, applies to the  
3 mill operation and the other to the woods operation.

4 MR. ESTEY: What is the mill rate?

5 MR. GRAINGER: It is in the neighborhood  
6 of a dollar, I am not sure.

7 MR. ESTEY: Do you know the number?

8 MR. SCOTT: 023. Is 020 and 021 under  
9 that?

10 MR. ESTEY: I see you would be below the  
11 3.8 by quite a bit. Has the budget been more or less  
12 static at 50 odd thousand dollars for the last few years?

13 MR. GRAINGER: Yes. The only reason we  
14 have had to increase the budget substantially, has been  
15 because of the addition of another member of our staff,  
16 who will engage in instruction. If we find other programs  
17 that are effective, and that require further support from  
18 the Board, I am sure we will ask for it.

19 MR. ESTEY: Do you bring experts, or  
20 consultants, to instruct your instructors, as we have  
21 heard the Forest Products Association does from the United  
22 States or British Columbia?

23 MR. GRAINGER: Yes, we have resorted to  
24 experts in the field of safety education in two ways.  
25 Our own staff of the Association, has attended such courses  
26 and the member companies send their people to attend  
27 courses or will sponsor it themselves. We have been  
28 exposed to practically every safety training course there  
29 is on the market.

30 MR. ESTEY: You have tried them all?







1 MR. GRAINGER: Yes.

2 MR. ESTEY: Tell me, in your plant  
3 organizations, inside the plant, do most of your members  
4 have safety councils or committees of some kind in which  
5 both management and labour unions are represented?

6 MR. GRAINGER: Yes, we have joint commit-  
7 tees, generally, on the firing line - the joint committee  
8 is as close to the program as possible. In other words,  
9 the joint committee will be right in the mill itself, or  
10 it will be on the woods operations, in the individual  
11 woods operations, individual camps.

12 MR. ESTEY: Because workmen are represented  
13 in these meetings, they attend along with supervisors,  
14 foremen?

15 MR. GRAINGER: Yes, they are.

16 MR. ESTEY: One last question on that  
17 point. Do these committees meet during working hours or  
18 do your member companies have instructions or meetings  
19 or programs during their working hours?

20 MR. GRAINGER: It varies. It could be  
21 both.

22 MR. ESTEY: Your frequency record in the  
23 mills and frequency record in the woods would indicate  
24 that there was considerable support for the belief that  
25 you are doing well the way you are.

26 MR. GRAINGER: Yes.

27 MR. ESTEY: And why change it? I want to  
28 ask you this, though. The injury frequency in the woods,  
29 which is the grey chart -

30 MR. GRAINGER: Yes.





1 MR. ESTEY: Do you have any idea how that  
2 would compare with the same graph for the Forest Products  
3 Association's membership?

4 MR. GRAINGER: Well, I would think that  
5 our accident frequency is much superior in the Pulp and  
6 Paper Makers Association, among the membership, than it  
7 is with the Forest Products Accident Prevention Associa-  
8 tion.

9 MR. ESTEY: You are both in the same  
10 field, on the grey chart anyway.

11 MR. GRAINGER: Yes.

12 MR. ESTEY: You are both woodland opera-  
13 tions?

14 MR. GRAINGER: Yes.

15 MR. ESTEY: I just have one last question  
16 which arises out of your brief where you refer to section  
17 117 of the Act, which gives you your reason for being as  
18 an educational agency.

19 I take it from all you have said, that in-  
20 herent in your presentation is the submission that your  
21 safety association does not require any power to enforce  
22 safety regulations or to create safety regulations; that  
23 you get the results you want, and this you can get best  
24 by a voluntary educational association.

25 MR. GRAINGER: I think that is true. I  
26 think our experience has been that our members would  
27 prefer to develop their own educational program, their  
28 own safety program in the plant, taking into consideration  
29 the circumstances that prevail in that particular plant  
30 or in that particular operation.





1 MR. ESTEY: And you have to inform your  
2 work force about the regulations, not only of the Depart-  
3 ment of Labour but the Department of Lands and Forests?

4 MR. GRAINGER: That is true.

5 MR. ESTEY: You have both of them to deal  
6 with?

7 MR. GRAINGER: Yes.

8 MR. ESTEY: Thank you, Mr. Grainger, Mr.  
9 Scott.

10 MR. SCOTT: I have copies of our Annual  
11 Report.

12 MR. ESTEY: All right, thank you.

13 EXHIBIT NO. 43: The Annual Report of Ontario  
14 Pulp and Paper Makers Safety  
15 Association.  
16

17 MR. ESTEY: We come to Mr. Kerr of the  
18 Board, dealing with Vocational Rehabilitation.

19 MR. KERR: W.R. Kerr, Director of Claims  
20 and Rehabilitation Research.

21 Mr. Commissioner, I have with me this  
22 morning, Mr. Harry Worling, the chief rehabilitation  
23 officer for the Workmen's Compensation Board.

24 VOCATIONAL REHABILITATION

25 REHABILITATION SERVICES

26 There are no provisions in the Act requir-  
27 ing employers to rehire injured workmen. The employment  
28 of the industrially injured is actively encouraged by  
29 the Board through its Vocational Rehabilitation Depart-  
30 ment.







1           The objective in every compensation case  
2 is to return the injured workman to employment. This is  
3 vocational rehabilitation. It begins on the day of the  
4 accident.

5           Successful rehabilitation is also the goal  
6 of treatment which includes all aspects of medical and  
7 surgical care, physical medicine, and industrial placement.  
8 Good rehabilitation prevents demoralization of the workman  
9 and demands the combined efforts of doctors, employers,  
10 labour organizations, and social agencies.

11           Many injured workmen also need the services  
12 of the Vocational Rehabilitation Department which provides  
13 social and vocational counselling including vocational  
14 assessments, selective placement in employment, and  
15 vocational retraining.

#### 16 REHABILITATION

17           Section 53 of the Workmen's Compensation  
18 Act gives authority to provide rehabilitation services  
19 to injured workmen. Of those requiring these services in  
20 1965, 93 per cent were rehabilitated with an annual pay-  
21 roll of nearly three million dollars. Almost 12 per cent  
22 of these injured workmen were seriously disabled and  
23 required a major change in occupation. The Board provides  
24 expert rehabilitation services, both at Head Office and  
25 through the province.

#### 26 COMMUNITY SERVICES

27           The Board maintains close liaison with  
28 community services such as the National Employment Service,  
29 The Rehabilitation Services of Ontario Government, the  
30 COSTI education and training program for Italian immigrants





1 and the Department of Veterans Affairs. The Board main-  
2 tains close liaison with organized labour in the interpre-  
3 tation of contracts that may prevent workmen from  
4 returning to a different type of employment for which they  
5 would not normally have seniority.

6 VOCATIONAL TRAINING

7 An injured workman may qualify for voca-  
8 tional training by formal training in a trade at an  
9 institution registered under the Ontario Trade Schools  
10 Act. He may also be trained at a recognized business  
11 school.

12 The Board will pay for training as a  
13 registered apprentice under the Industrial Training Act  
14 of Ontario. The Board supports the disabled workman  
15 during training on the job with an established employer.

16 The Board provides training at Teacher's  
17 College and the Ontario College of Education. In  
18 exceptional cases, the Board has supplied professional  
19 training at an institution of higher learning. Corres-  
20 pondence courses may be provided in cases of prolonged  
21 hospitalization for severe disability.

22 If a disabled workman lacks some formal  
23 education he may take an accelerated pre-vocational  
24 course in English, Mathematics and Science if required  
25 for entry into a trade school or an apprenticeship.

26 TRAINING COSTS

27 A workman engaged in a training program  
28 receives the equivalent of full compensation, additional  
29 allowances for board and room when training away from  
30 home when he maintains a home for his dependants, and





1 travelling expenses, tuition, textbooks, equipment, and  
2 examination fees.

3 The cost of training is met from funds  
4 provided under Section 53 of the Act. Where the expendi-  
5 ture of \$200,000.00 provided by Section 53 does not meet  
6 the cost incurred, the use of additional Board funds is  
7 authorized by Order in Council.

8 THE COMMISSIONER: This \$200,000.00, it  
9 has relation to the training for replacement in industry,  
10 alone, or does it also cover the rehabilitation work that  
11 is done at Downsview, in getting them back physically?  
12 I mean, there is some confusion in my mind, because you  
13 use the same term in both cases.

14 MR. KERR: Yes.

15 THE COMMISSIONER: Are they dealt with  
16 differently by the Board?

17 MR. KERR: Well, there are really three  
18 situations, sir. The funds provided under section 53 are  
19 for the retraining purposes.

20 THE COMMISSIONER: For retraining?

21 MR. KERR: For retraining purposes, and  
22 that kind of related activity.

23 The actual cost of operating the Department  
24 comes out of our general administrative expense and is  
25 not charged against section 53.

26 The cost of the workmen who are treated  
27 at our hospital and rehabilitation centre is provided  
28 for under the medical aid provisions.

29 As you will recall, sir, we have a per  
30 diem rate of so much a day for a cost of a patient who







1 is treated at our centre and this is processed as medical  
2 aid.

3 So that the direct answer to your question,  
4 sir, is that the \$200,000. referred to, is used for  
5 vocational training purposes.

6 In 1963, the expenditures under Section 53,  
7 amounted to \$172,413; 1964, \$272,883; in 1965, \$283,500.

8 Our present Order in Council, authorizes  
9 expenditures up to \$300,000. We anticipate this year  
10 that we will exceed that amount, and we must now obtain  
11 a new Order in Council.

12 MR. ESTEY: But the money comes from the  
13 assessment?

14 MR. KERR: That is correct.

15 MR. ESTEY: The Order in Council does not  
16 produce any money; it just allows you to use the money  
17 on hand?

18 MR. KERR: Yes, sir. It authorizes us  
19 to use these funds for these purposes.

20 I have been requested to explain our  
21 activities, when a man is fit for light work, not necess-  
22 arily a permanent disability case.

23 We have, throughout the years, provided  
24 services to this particular group. We have taken steps  
25 to increase our service so that we can make available  
26 vocational rehabilitation services, basically placement  
27 services, for those who are temporarily partially disabled.

28 We have carried on this kind of activity at  
29 our hospital and rehabilitation centre for a good long time,  
30 and it may be of interest to take a look at what happened





1 to workmen who were discharged from our hospital and  
2 rehabilitation centre and who were available for employ-  
3 ment. These figures are for the quarter ending June 30,  
4 1966. This is a breakdown of patients available for  
5 employment at the time of discharge.

6 76 per cent of them returned to employ-  
7 ment immediately. This 76 is broken down into:

8 Returned to former employment 41%

9 Returned to modified former employment 32%

10 New employment 3%

11 That totals 76 per cent. The remainder did not return  
12 to work immediately. Many of them had to be referred  
13 for service by our field officers, but it was necessary  
14 to carry on more work to arrange modified employment or  
15 suitable employment. Some of these men would also be  
16 candidates for retraining purposes.

17 It has been suggested that greater use  
18 should be made of industrial workshops. We have, through  
19 the years, looked at industrial workshops and we are  
20 continuing to study them. At the present time, we have  
21 a pilot project which is to run for a period of one year,  
22 and we are using the facilities of Operation Reliance,  
23 which is an organization that hires disabled people.

24 A workshop serves a very important purpose  
25 for specific types of cases, but it is not the answer to  
26 returning men to work promptly when there is a temporary  
27 disability only and modified work for a relatively short  
28 period of time is required.

29 We use industrial workshops where there is  
30 a much deeper problem than one of trying to find temporary





1 modified employment, although sometimes finding temporary  
2 modified employment is also a problem.

3 THE COMMISSIONER: I suppose you watched  
4 with interest the thing that was announced in yesterday's  
5 paper, of some project of the kind that is contemplated  
6 with the Dominion government.

7 MR. KERR: We are very much interested,  
8 sir, in the program that will be developed by the Man-  
9 power Department of the Dominion government.

10 As I understand it, the country is divided  
11 into five regions, for their purposes, and as soon as  
12 they appoint a regional director for Ontario, we will be  
13 in contact with him to find out exactly what is involved  
14 in their enlarged program and, certainly we will want to  
15 make use of their facilities for the injured workmen of  
16 Ontario.

17 THE COMMISSIONER: There was something  
18 else I was going to ask you. It was in connection with  
19 your reference to the training that you were prepared to  
20 give in exceptional cases, providing professional train-  
21 ing in an institute of higher learning.

22 We have heard referred to, one case where  
23 a disabled workman had sought from you training and  
24 that he had not been given any encouragement because he  
25 lacked the basic training to be able to take advantage  
26 of it, or to take advantage of it was going to involve  
27 a long period of basic training.

28 I suppose, in these cases, you have to  
29 exercise your judgement as to how far you can go.

30 MR. KERR: Yes, we do have to appraise







1 the man's capabilities. We must take into account what  
2 his formal education has been.

3 We have psychologists on our staff and  
4 rehabilitation centre where these determinations can be  
5 made in a professional manner. In that particular case,  
6 our records indicate that the individual had no formal  
7 education at all. So therefore, he would not be a good  
8 candidate to go to University.

9 I may ask Mr. Worling to perhaps enlarge  
10 on this point and explain where we have sent a man to  
11 university.

12 MR. WORLING: These cases, first of all,  
13 are very few and they are for the unusual individual.

14 An early example - and I am going back now  
15 some years and the years have shown this was a wise move  
16 and successful - we had a problem with a certain firm  
17 in an Ontario town where they had an electrician. If  
18 this man had any shortcomings physically, it was that he  
19 was too tall. He was about 6 feet 5½ inches, and his  
20 problem on maintenance work was that he had to keep  
21 bending to get into awkward positions in order to maintain  
22 the facilities in the plant. As a result, he was in  
23 continuous back trouble.

24 Here we had a man who had a grade 13 basic  
25 education. He had a formal apprenticeship completed and  
26 a work history.

27 Now, this man, had he been maintained in  
28 the plant, would have had a continuous history of recurring  
29 disability. This was determined medically. As a result,  
30 by giving this man eight months at the Ontario College of





1 Education, he is now teaching in a vocational school the  
2 trade in which he is qualified.

3 We have had men who have had a good educa-  
4 tional background, who have moved into engineering, for  
5 example.

6 Now, some of these men are highly disabled.  
7 The training costs, to get the balance here, the training  
8 costs are quite low in this case because, where you have  
9 a man being maintained on a high disability rating, say  
10 even 100 per cent, the only cost to be incurred on that  
11 type of claim, by the Board, would be the training or  
12 tuition costs or travelling or examination fees.

13 We have a number of good examples, if you  
14 want me to enlarge on it, sir.

15 THE COMMISSIONER: Thank you.

16 MR. KERR: We are very fortunate in Ontario  
17 that such a large percentage of our injured workmen do  
18 return to their former employment with their former  
19 employers.

20 The employers of Ontario and the unions,  
21 cooperate with us in retraining injured workmen to work,  
22 and I think that this is on everyone's minds these days,  
23 particularly with the emphasis on vocational training.

24 We will continue our efforts to work in  
25 cooperation with labour and with employers and other  
26 agencies, to make sure that the best service possible is  
27 given to the injured person.

28 THE COMMISSIONER: Well, of the 93 per  
29 cent who are rehabilitated because you referred to - I  
30 see, 12 per cent. With the exception of 12 per cent of





1 those 93 per cent who are rehabilitated, they returned  
2 to work which they had been doing before, if not with  
3 the same firm, performing the same type of work.

4 MR. KERR: Some modification or their  
5 former work, depending on the situation. Only 12 per  
6 cent required major change in occupation, sir.

7 THE COMMISSIONER: I see.

8 MR. KERR: Although these cases are very  
9 important, once again we are talking about a small per-  
10 centage, but it is very important to the man and all  
11 those concerned.

12 The most popular type of training, of  
13 course, is training on the job with the employers of  
14 Ontario themselves, and this is where cooperation -

15 THE COMMISSIONER: You might explain to  
16 us again what your policy is there. You pay the difference?  
17 You pay to the employer, the cost of training on the job,  
18 do you?

19 MR. KERR: Usually it works the other  
20 way around, that an employer, who has a workman who is  
21 in need of training on the job, will accept him for these  
22 training purposes and will pay him a nominal, small amount  
23 of money so that he is legally employed and so that he is  
24 protected for Workmen's Compensation purposes.

25 We make up the difference between what he  
26 received from the employer to give him the equivalent of  
27 his full compensation while he is training on the job.  
28 This could be a sliding scale, but that is the basic  
29 approach, sir.

30 Then, of course, the second most popular







1 training scheme is the technical training where men are  
2 sent to trade schools.

3 Number three is business training in order  
4 of popularity, if I may put it that way.

5 THE COMMISSIONER: Three is what, business  
6 training?

7 MR. KERR: Yes.

8 1. Training on the job.

9 2. Technical training.

10 3. Business training.

11 I have been asked to say a word about our  
12 attitude towards medically approved work.

13 Certainly, our basic philosophy in rehabili-  
14 tation is that a man should return to suitable, appropriate  
15 work in as short a time as possible. When a man is at  
16 our hospital and rehabilitation centre, the rehabilitation  
17 officer is in contact with the employer while his employee  
18 is at the hospital, and arrangements are made on an ongoing  
19 basis.

20 However, there are a great many cases that  
21 do not come to our hospital and rehabilitation centre,  
22 and the attending doctor in the home community, works  
23 with the employer and the man.

24 If a problem exists, we can very quickly  
25 enter the picture and help resolve the problem, providing  
26 one of the parties lets us know a problem does exist.

27 What we have asked employers to do, is  
28 to describe the type of work that they have available for  
29 the employee to the workman and to the doctor, and if the  
30 doctor says that this man can go back to this particular





1 work, providing it does not (he must determine this),  
2 does not have an adverse affect upon his injury and it  
3 will not create an additional hazard to the man and will  
4 not create an additional hazard to his fellow workmen.

5 If the doctor in charge of the case says:  
6 "Yes, this man can do that type of work", then we expect  
7 the injured person, under normal circumstances, to return  
8 to the employment provided.

9 Now, if there is a difference of opinion  
10 between the industrial physician, the company doctor and  
11 the attending physician, (the man has the initial choice  
12 of doctor, and he may go to his family doctor), if there  
13 is a difference of opinion between the family doctor and  
14 the company doctor, then we request that we be notified  
15 immediately so that we can make arrangements for this  
16 workman to be examined by a specialist in the locality  
17 where they live, so that we can have a further medical  
18 opinion as to whether or not the man is capable of per-  
19 forming the work that is available.

20 THE COMMISSIONER: We will adjourn for  
21 ten minutes.

22 ---Short recess.  
23

24 MR. ESTEY: I just have a few questions  
25 to ask you, Mr. Kerr. First of all, as the Commissioner  
26 has indicated, there may be some confusion in this word  
27 "rehabilitation", and I take it it falls into two distinct  
28 compartments. One is medical rehabilitation in the phy-  
29 sical sense, and the other one is rehabilitation in the  
30 economic sense, getting a man back to work or retraining





1 or something else.

2 MR. KERR: Yes.

3 MR. ESTEY: Then, in the midst of all  
4 that uncertainty, you have this light duty concept,  
5 where you do not rehabilitate a man but you phase him  
6 back into his old work?

7 MR. KERR: That is correct.

8 MR. ESTEY: When a man is injured and he  
9 comes to the point where he can return to work, I take  
10 it that if he does not require retraining in the technical  
11 sense, or business sense, but he does require a longer  
12 recuperative period to get back to full capacity, that  
13 the Board seeks to find him medically approved light work.

14 MR. KERR: We do, sir.

15 MR. ESTEY: Now, is it automatic in these  
16 cases that the employer of that man is asked if they  
17 have light work for him?

18 MR. KERR: Yes, the first approach we  
19 take is, when the man's compensation is reduced from  
20 full to partial compensation because he is now fit for  
21 suitable employment, the man is notified by letter - and  
22 I believe we have already filed the letter with you -  
23 which points out several things: one that he is now  
24 fit for - perhaps I might read this very short letter,  
25 if I may?

26 MR. ESTEY: Is that on a form?

27 MR. KERR: It is a G.6 letter, form of  
28 letter, which says:

29 "Medical reports show that you are no  
30 longer totally disabled because of your







1                   compensable condition. Temporary total  
2                   disability benefits have, therefore, been  
3                   discontinued as of ..."

4   such and such a date, and it is usually a current date.

5                   "We realize that you may be still partially  
6                   disabled, and we suggest that you discuss  
7                   with your doctor the type of work you  
8                   could do. If you have not already done  
9                   so, you should contact your employer to  
10                  make arrangements for you to return to  
11                  suitable work. If your employer is  
12                  unable to provide you with suitable work,  
13                  and you have no other work to go to, we  
14                  would be pleased to assist you to arrange  
15                  employment.

16                 Should you desire our help, please  
17                 complete the attached form, 'Request  
18                 for Rehabilitation Services' and return  
19                 it to the Workmen's Compensation Board  
20                 as soon as possible."

21                 This goes out, in all cases, where a man's  
22                 compensation is reduced because he is now fit for light  
23                 work, regardless of the degree of disability.

24                 MR. ESTEY: Does a copy of that go to  
25                 the employer?

26                 MR. KERR: No, sir.

27                 MR. ESTEY: Why not?

28                 MR. KERR: We feel that the man, the  
29                 workman, with his doctor, is the one - either the man or  
30                 doctor should approach the company to prescribe the type





1 of work he may now perform, to determine what work is  
2 available.

3 In seriously disabled cases, our rehabili-  
4 tation officer has already contacted the employer.

5 MR. ESTEY: I am taking the run-of-the-  
6 mill light duty case. The employer at that moment, does  
7 not know the man is available.

8 MR. KERR: Not until the man or the doctor  
9 has told the employer.

10 MR. ESTEY: The man has not got that  
11 letter yet.

12 MR. KERR: But he has already been told  
13 by his doctor that he is fit for suitable employment,  
14 because the doctor is the one who submits the report to  
15 us telling us that the man was examined on such and such  
16 a date and he is fit for work of a suitable nature.

17 MR. ESTEY: The man is told that by the  
18 doctor and in the normal course of the workings of the  
19 human mind, is the workman more or less likely to go to  
20 the employer and tell him, or not, that he is now on  
21 partial compensation; and if he returns to light duty,  
22 does his pay, as received from the employer, affect that  
23 partial disability award?

24 MR. KERR: Yes, if he returns to suitable  
25 employment and receives the same earning as prior to the  
26 accident -

27 MR. ESTEY: He gets nothing.

28 MR. KERR: He receives no partial compen-  
29 sation.

30 MR. ESTEY: That is why I am addressing





1 the question to you; that is why, therefore, I asked  
2 about shooting him back to his employer, to use that  
3 word.

4 MR. KERR: I think our experience about  
5 returning of these forms indicates that in the larger  
6 percentage of cases - I could not tell you what percentage  
7 - he has already contacted his employer and they tell us:  
8 "I am at work", or "The workman could not be provided with  
9 work because ..", but in the majority of cases, he does  
10 contact his employer. It does not always result in  
11 suitable light work being provided, of course, I must  
12 add that.

13 MR. ESTEY: You described the significance  
14 of suitable employment. In the case where there is no  
15 suitable employment, I notice your letter does not direct  
16 the man to the National Employment Service of the Depart-  
17 ment of Labour of Canada. In fact, you do have a pretty  
18 close contact with them, do you not?

19 MR. KERR: There are two situations.  
20 First of all, when the man is discharged from our centre,  
21 fit for suitable work, he is provided with a letter to  
22 take to the National Employment Service. In this instance,  
23 where we are sending him a letter from the Board because  
24 he is out of our direct control, if you will, he is in  
25 some other part of the province, attached to this letter  
26 we have this request for vocational rehabilitation  
27 services. One question is:

28 "Have you registered with the National  
29 Employment Service? If 'yes', give  
30 branch."







1 MR. ESTEY: Does this go with the letter  
2 which you read?

3 MR. KERR: This goes with the letter. If  
4 he wants services from us, he completes this and sends  
5 it back.

6 MR. ESTEY: I was just curious why it  
7 would not be in the letter, since that would seem to me  
8 to be the primary step after the employer is unable to  
9 give him light duty.

10 MR. KERR: I think we felt, because this  
11 is on the form attached to the letter, it would not be  
12 necessary to put it in the letter, though it could well  
13 be included in the letter.

14 MR. ESTEY: Does the Board, following  
15 that chronology through, does the Board then find out from  
16 either the workman or the Unemployment Insurance Commission,  
17 whether he has received employment through N.E.S., whether  
18 he receives unemployment insurance payments?

19 MR. KERR: I am sorry, would you say your  
20 question again?

21 MR. ESTEY: The man has gone through the  
22 filter; he cannot get light work from the employer; he  
23 reads the letter, sees the green sheet and goes to the  
24 N.E.S. They either can or cannot find him work. If they  
25 can find him work, does the information get back to the  
26 Board?

27 MR. KERR: Yes. When the man is fit for  
28 light work, we must send him a periodic report, which he  
29 completes for us, and it is the man who tells us he has  
30 returned to employment, on this form that we send to him





1 periodically.

2 MR. ESTEY: Based on that information,  
3 you decide what to do with his allowance?

4 MR. KERR: That is correct.

5 MR. ESTEY: The other alternative, the  
6 only other possibility is N.E.S. cannot find him light  
7 duty, in which case he goes on Unemployment Insurance.

8 Now, does the Board bother about that, in  
9 the ordinary course of operations?

10 MR. KERR: We are not necessarily concerned  
11 with that in the awarding of compensation, because, as  
12 already stated, he is entitled to his partial compensation  
13 benefits from the Board, plus any unemployment insurance  
14 to which he may have entitlement. So it is really not  
15 a factor in awarding of compensation on a partial disability  
16 basis.

17 MR. ESTEY: It is of no significance to  
18 the Board whether the other pays or not?

19 MR. KERR: It is quite legal for him to  
20 collect from both sources at present, if he has entitle-  
21 ment.

22 Mr. Worling has asked me to add another  
23 important point in the actual operation. As soon as  
24 the man returns his request to us for vocational services  
25 on this light work situation, our rehabilitation officers,  
26 within 24 hours, contact the man and the employer to  
27 effect what we like to call instant rehabilitation, by  
28 using the telephone, rather than having the man come down  
29 in the office.

30 MR. ESTEY: You read to us, Mr. Kerr, the





1 G.6 form a minute ago, which is the Board letter. I take  
2 it that that is a recent form letter which you have  
3 adopted. I have one in 1965, which I think is different.  
4 It does not refer to anything other than:

5 "You should contact your employer and  
6 attempt to make arrangements to return  
7 to suitable work."

8 That is the end of the second paragraph.

9 MR. KERR: Yes, this phase of our program  
10 was introduced in July of this year. Therefore, this  
11 form is dated July, 1966, the one I have in front of me.

12 MR. ESTEY: Proceeding through and  
13 eliminating all the little possibilities, we have the  
14 two possibilities where he either goes back to his employ-  
15 er, or he does not go back and he goes over to the federal  
16 agency. Let us take the third possibility as you have  
17 enunciated this in your memo this morning, and that is  
18 that the man is, apparently unable to go back into the  
19 work stream because he needs to be retrained; he has  
20 lost the capacity, by reason of the injury, that he had  
21 to sell his services on the labour market. So he has to  
22 create a new aptitude, and the Board now enters the  
23 picture. How does that position come to the surface?

24 MR. KERR: I would ask Mr. Worling to  
25 describe the function of retraining.

26 MR. WORLING: The case comes to the  
27 surface in many ways. Our service is known throughout  
28 the province. We participate in seminars. We have  
29 rehabilitation offices located in our district offices,  
30 and the services are known to the medical groups and to







1 the employer groups. As a matter of fact, very often  
2 we will be informed of a problem before the problem really  
3 exists as far as the man is concerned. We will be inform-  
4 ed of a serious injury, and we know what the end result  
5 likely will be, that something will have to be done to  
6 assist this man into effective, vocational, rehabilitation  
7 retraining.

8 This comes from any sources. I might also  
9 say this comes from labour as well as the employer, the  
10 medical groups.

11 MR. ESTEY: So in your brief this morning,  
12 you say:

13 "Of those requiring these rehabilitation  
14 services, 93 per cent were rehabilitated."  
15 I take it that, wherever the source, you would have a  
16 list of those current cases which will require, or do  
17 require rehabilitation services?

18 MR. WORLING: That is right, sir.

19 MR. ESTEY: And it is 93 per cent of  
20 that list that you are discussing here?

21 MR. WORLING: That is right.

22 MR. KERR: We attempt to have vocational,  
23 rehabilitation services running concurrent with medical  
24 services, rather than tagging it onto the end; because  
25 by doing so, this way, in a good many cases, we can  
26 shorten the length of time before the man returns to work.

27 MR. ESTEY: And then, when he is taken  
28 up in the rehabilitation program, then his payment from  
29 the fund may include, in addition to his disability  
30 allowance, a payment of the nature you have described for





1 training purposes - fees of an institution, board and  
2 room, or something else.

3 MR. KERR: That is correct

4 MR. ESTEY: That comes out of the \$200  
5 thousand fund?

6 MR. KERR: Yes.

7 MR. ESTEY: As contrasted to the use of  
8 the other fund?

9 MR. KERR: That is charged to the \$200  
10 thousand.

11 MR. ESTEY: Do you know the history or  
12 explanation of the limitation of \$200 thousand?

13 MR. KERR: No, I am afraid I do not,  
14 except to say it does exist in the Act, and we have had  
15 no difficulty in obtaining an Order in Council, when we  
16 exceed that amount.

17 MR. ESTEY: When do you get that? Do  
18 you go to the Lieutenant Governor in Council in anticipa-  
19 tion, or after it has happened?

20 MR. KERR: No, we anticipate we are going  
21 to exceed it. This year we anticipate we are going to  
22 exceed our current authorization of \$300 thousand, so  
23 steps have been taken to obtain the Order in Council.

24 MR. ESTEY: So when you apply to the  
25 Minister of Labour to obtain the Order in Council to  
26 authorize you going above the ceiling, in your request  
27 do you say: "We want to go \$50 thousand above, or \$100  
28 thousand above", or what do you say?

29 MR. KERR: We state that our anticipation  
30 is based on the forecast and our experience to date, for





1 the year.

2 MR. ESTEY: I take it, since you have  
3 not mentioned it, that these programs do not give rise  
4 to an entitlement in the workman, or the Board, or the  
5 province, to federal aid in rehabilitation on these 50/50  
6 programs we read about?

7 MR. KERR: Mr. Worling will answer that.

8 MR. WORLING: This is an area where we  
9 have been in very close liaison with the Department of  
10 Education and also with the Department of Labour. At  
11 the moment, policies are not firm and they have not been  
12 clearly stated.

13 We expect this will be soon, but up to  
14 this time, we have participated and are participating  
15 in these federal-provincial schemes, on a limited basis.  
16 This may increase in the future.

17 MR. ESTEY: Some of your men under rehabi-  
18 litation, though, would be attending provincial trades  
19 training, both vocational training centres, such as  
20 Algonquin College up in Ottawa?

21 MR. WORLING: This is possible.

22 MR. ESTEY: Do you send people to places  
23 like that?

24 MR. WORLING: That is right.

25 MR. ESTEY: In this area, you would send  
26 some to Ryerson Institute?

27 MR. WORLING: That is true. We have  
28 them now, sir.

29 MR. ESTEY: At how many places throughout  
30 the province, do you have rehabilitation officers located?







1 MR. WORLING: Sarnia, Kitchener, Ottawa,  
2 North Bay, Sudbury and the Lakehead.

3 THE COMMISSIONER: Seven?

4 MR. WORLING: Yes, sir. I should have  
5 counted.

6 MR. ESTEY: Six - Sarnia, Kitchener,  
7 Toronto -

8 MR. WORLING: Of course, including Toronto,  
9 these are the main offices.

10 THE COMMISSIONER: Including Toronto there  
11 are seven.

12 MR. ESTEY: And Hamilton is covered from  
13 Toronto?

14 MR. WORLING: From Toronto.

15 MR. ESTEY: Mr. Kerr, you gave us some  
16 figures going back for four years on this cost of rehabili-  
17 tation.

18 THE COMMISSIONER: When you talk about  
19 rehabilitation centres you have also got regional centres,  
20 have you not?

21 MR. KERR: No, sir. We only have one  
22 hospital and rehabilitation centre, and that is the one  
23 at Downsview. We have these district offices.

24 THE COMMISSIONER: Now, I used the words,  
25 "rehabilitation centres", and you apparently do not want  
26 to. What are these places you have just referred us to?

27 MR. KERR: These are resident rehabilita-  
28 tion officers who work out of our district offices,  
29 actually.

30 THE COMMISSIONER: I see, these are places





1 where you have district offices.

2 MR. KERR: That is right, resident,  
3 rehabilitation offices, is one way of putting it, and  
4 they serve their particular area, and the other areas  
5 of the province are served by field men operating out of  
6 our head office.

7 THE COMMISSIONER: They work out of your  
8 regional offices?

9 MR. KERR: Out of the regional offices.

10 THE COMMISSIONER: But you have other  
11 people working out of regional offices besides your  
12 rehabilitation people, I suppose?

13 MR. KERR: Yes, sir, that is correct.

14 Mr. Worling would like to change that  
15 Sarnia, to Windsor, as the district office is in Windsor.  
16 It does serve in Sarnia, but it is our Windsor district  
17 office.

18 MR. ESTEY: How many workmen would you  
19 have in the various stages of rehabilitation at any given  
20 time, such as now?

21 MR. WORLING: You are speaking of our list.  
22 We can give you the total work load for the year 1965,  
23 number of men that we worked with. The total number of  
24 cases in 1965 was 7,217.

25 MR. ESTEY: Of that, how many received  
26 training?

27 MR. WORLING: Of that number, 260 actually  
28 received vocational training under the vocational training  
29 program.

30 THE COMMISSIONER: The others went back





1 on the job?

2 MR. WORLING: That is right, sir.

3 THE COMMISSIONER: Or came under one of  
4 the other headings?

5 MR. WORLING: Yes.

6 MR. ESTEY: When they are receiving  
7 training, would their disability allowances, apart from  
8 their fees, tuition fees and that kind of thing, would  
9 their disability allowances under section 40 or 41 or  
10 42, change while they are on training, depending upon  
11 their condition, medical condition, improvement; or  
12 does it remain frozen because the theory of the thing is  
13 he has to have retraining before he can get back to work.

14 MR. WORLING: No, sir, this does not  
15 remain frozen; this may be adjusted.

16 For example, if a man starts off with 50  
17 per cent under section 41, we would pay the balance of  
18 his entitlement under section 53.

19 Should in the course of training, medical  
20 condition change (it can and does change) under section  
21 41, he may be reduced to 25 per cent. If so, there would  
22 be an immediate adjustment from section 53 to maintain  
23 him on his full entitlement, to the equivalent of temporary  
24 total while under training.

25 MR. ESTEY: So that the same rules operate  
26 whether he is on training or not?

27 MR. WORLING: The man gets the same  
28 amount of money.

29 MR. ESTEY: In your brief you say 12 per  
30 cent, or almost 12 per cent of the injured workmen were







1 seriously disabled, requiring a major change of occupation.  
2 Does that 12 per cent include 270 that you are retraining?

3 MR. WORLING: Yes, sir.

4 MR. ESTEY: Then, in addition to those  
5 people being retrained, you would have some people who  
6 were re-located through your services but without going  
7 to an institution for retraining?

8 MR. WORLING: That is right. I should  
9 add, for information, if I may, the fact that a man who  
10 has been out of school for ten, twelve or fifteen years  
11 or more, most men are looking for a job. They do not  
12 want or request training, or retraining. Now, some do.  
13 I am stating the majority, in our experience, do not.

14 Their request to us is to assist them in  
15 getting a job that they can do in whatever condition  
16 they may be. This is the main emphasis. Where the other  
17 is justified, it is certainly pursued; where training  
18 is justified, it is certainly pursued.

19 MR. ESTEY: If you re-locate him, either  
20 by retraining or otherwise, and he is on permanent dis-  
21 ability, partial permanent disability allowance, for  
22 example, and his income is now greater than it was before  
23 because he has either been retrained or he has had a  
24 chance to get into this other work, and make more money  
25 than before, what happens to his allowance?

26 MR. WORLING: It remains as his basic  
27 pension entitlement, regardless of what he does. The  
28 more money he can make, the better off he will be. He  
29 can stay home, for example, and do nothing; he can go  
30 back to his former job or any other job and make more





1 money or less money. This does not affect his basic  
2 pension entitlement under the Act. He receives this,  
3 regardless of what he will do.

4 MR. ESTEY: I ask you the question because  
5 the wording of section 42(1), which says:

6 "Where a permanent disability results  
7 from the injury, the impairment of  
8 earning capacity of the workman shall  
9 be estimated from the nature and degree  
10 of the injury, and the compensation shall  
11 be weekly .."

12 and so on. The impairment to his earning capacity has  
13 not really occurred, except in the sense that he cannot  
14 earn as much at one trade as he can at another by reason  
15 of the injury.

16 MR. WORLING: He may accommodate.

17 MR. ESTEY: So you have the position  
18 that if he happens to have much impairment in his trade  
19 at the time of the injury, the most desirable interpreta-  
20 tion of section 42 is that whatever he does in the future,  
21 stay at home or go to another job, his disability allow-  
22 ance will be the same.

23 MR. WORLING: That is what is done, sir.

24 MR. ESTEY: Before you sit down, Mr.  
25 Worling, I want to ask you something unrelated to that.  
26 Where a man -

27 THE COMMISSIONER: Well, supposing his  
28 disability allowance has been fairly substantial, and  
29 you do not base it on physical disability alone because,  
30 I mean to say, you will also have to consider his capacity





1 to do the job, do you not?

2 MR. KERR: I think, sir, we are getting  
3 back to the field of establishing permanent disability,  
4 which is really not our particular field. There was  
5 discussion of that.

6 THE COMMISSIONER: I was just wondering,  
7 if it is permanent, he can do what he pleases. Maybe this  
8 only refers where there is total permanent disability; but  
9 in those cases where, in the meantime - and they have  
10 referred us to one or two, or there have been one or two  
11 submissions made about cases where, if they had full dis-  
12 ability and then it is found that they had not been  
13 disabled and were working, why the Board can and does  
14 reconsider those cases?

15 MR. KERR: Are we talking in terms of  
16 temporary total disability where the man is on full com-  
17 pensation?

18 THE COMMISSIONER: I don't know.

19 MR. KERR: In temporary disability, if the  
20 man is receiving full compensation, temporary total dis-  
21 ability, not permanent, and we are advised that he is  
22 working, we take steps to confirm this and, obviously,  
23 his compensation is discontinued, reduced, or, if there is  
24 an overpayment, we request the overpayment.

25 With permanent disability, it is a little  
26 different. I think, as the Board representative has  
27 explained, that permanent disability that we take into  
28 consideration, means impairment for earning capacity, and  
29 there is a rating schedule which is used as a guide.

30 There are many men who receive pensions from







1 the Board while working and making as much money as they  
2 did before the accident. The amputee is a good example.  
3 Not all of them, in fact I suppose they are in the minority,  
4 but those who earn more than they did before the accident,  
5 it is possible we do pay some who are earning as much as  
6 they did before the accident, but they still receive  
7 their pension for the loss of the arm.

8 MR. ESTEY: You are quite right, we get  
9 over the verge into the region of permanent disability,  
10 but we get into this because there are two basic possib-  
11 ilities when a man receives a permanent disability  
12 allowance because of an injury which has impaired him  
13 permanently.

14 The two basic possibilities are; one, that  
15 he goes back to the same job he had before; and the second  
16 one is that he goes to a different job by reason of Mr.  
17 Worling's department. If he goes to Mr. Worling's depart-  
18 ment, you have told them that regardless of the economic  
19 outcome, he gets the same disability allowance as though  
20 he had not gone to rehabilitation, is that right?

21 MR. KERR: That is correct.

22 MR. ESTEY: If he goes back to his old  
23 job, to his old trade, but another employer, then you  
24 have the difficulty we hear so much about, that the first  
25 employer, where he was when he was injured, is charged  
26 with this pension but he is back doing the same work and  
27 he gets the same money, and as to whether he has gone to  
28 a new job or a different job.

29 MR. KERR: I am afraid I cannot answer  
30 the question. I am not qualified to answer a question





1 of permanent disability.

2 MR. ESTEY: But the second part?

3 MR. KERR: On the second part, yes, but  
4 not the permanent disability part.

5 MR. ESTEY: Let me ask this question of  
6 either of you gentlemen. Let us take the example of a  
7 man who is working in a manufacturing plant, and he is  
8 running a brake to bend metal and he gets hurt, but the  
9 injury does not deprive him of any function. He gets  
10 a bad elbow, let us say.

11 Now, he does not want to run a brake  
12 because the elbow bothers him once in a while. He can  
13 run the brake but he doesn't like to; it bothers him.  
14 So the company says: "We have a job where you don't have  
15 to pull a big hydraulic handle down. We have a punch  
16 press run on a foot pedal, so we will put you over on  
17 the foot pedal and the bursitis on your elbow, will not  
18 bother your ankle".

19 But the trade union says: "Wait a minute.  
20 We have got a collective agreement with you that says  
21 that anybody that wants to work his way up to the foot  
22 pedal job, has to have seniority, and this fellow did  
23 not have seniority when he hurt his elbow". Now, what  
24 would you do?

25 MR. WORLING: This poses a very real  
26 problem and difficult, in some cases, of solution. But  
27 it can be resolved and it has been resolved when, for  
28 example, the union, management and ourselves, sit down  
29 with an honest desire to resolve this workman's problem.

30 Now, you have intimated, for example, that





1 some men do not like the work they are doing.

2 MR. ESTEY: It aggravates his injury.

3 MR. WORLING: Yes, but the other fact  
4 is also true, that all men do not like the jobs they are  
5 presently doing. This is common. What we want to do is  
6 to be fair in our appraisal that a change is justified  
7 because of the compensable condition, not just because  
8 the man wants to change.

9 THE COMMISSIONER: So you seek cooperation  
10 of labour?

11 MR. WORLING: We seek the cooperation and  
12 seniority has been waived in certain cases.

13 MR. ESTEY: Of course, you have no  
14 statutory rights.

15 MR. WORLING: That is right.

16 MR. ESTEY: In rehabilitation, to cause  
17 a waiver of these collective terms?

18 MR. WORLING: That is right. We point  
19 out there is nothing more than a moral obligation.

20 MR. ESTEY: Do you know of any jurisdic-  
21 tion in which rehabilitation is a paramount right over  
22 employer regulations or collective agreements?

23 MR. WORLING: No, sir.

24 MR. ESTEY: On the cases where, for very  
25 good reasons, from the union point of view, they will  
26 not waive seniority rights or the employer says: "I do  
27 not want to put him in there because it will cause dif-  
28 ficulties in that group and people will want to get the  
29 promotion", what do you say? Do you say to the man,  
30 "We cannot rehabilitate you in that way. We will have







1 to see you go to another factory"? What do you do?

2 MR. WORLING: The decision, we will be  
3 guided in what we say by the decision that the man makes.  
4 He will know what the practical problems are, should he  
5 remain in this situation, and he will know what the  
6 possibilities are. He will decide, after counsel, and  
7 discussion back and forth, that this is what he wants to  
8 stay with, or if he wants to change. If he wants to  
9 change, we will do what we can to assist him.

10 MR. ESTEY: So he falls back into the  
11 ordinary case where he gets his partial disability allow-  
12 ance.

13 MR. WORLING: That is right.

14 MR. ESTEY: He may get unemployment insur-  
15 ance while he finds other work?

16 MR. WORLING: Yes, sir.

17 MR. ESTEY: Fine, thank you very much, sir.

18 Mr. Kerr, I think there is one tag end  
19 that you were going to direct yourself to this morning,  
20 dealing with casual labour.

21 MR. KERR: May I obtain my notes? I have  
22 been requested to clarify our position on casual labour  
23 as it has been mentioned in several briefs.

24 There seems to be some opinion that because  
25 a man is a casual labourer, that he is not entitled to  
26 the protection of the Act in any event.

27 A person engaged - and this concerns section  
28 3, subsection 4 of the Act - a person engaged for casual  
29 labour is not considered to be a workman within the  
30 meaning of the Act, as subsection 4 of section 3 states,





1 that this section does not apply when two conditions are  
2 present. Those two conditions are; one, when the employ-  
3 ment is casual and, two, when the person is employed  
4 otherwise than for the purposes of the employer's trade  
5 or business. Both conditions must be present to enforce  
6 the exclusion.

7 It is believed that the original wording  
8 of the Ontario Act goes back to the English Compensation  
9 law. One of the dictionary definitions of "casual" is:

10 "Coming without regularity or occasion-  
11 ally."

12 This definition could well apply to the definition of  
13 "casual" in "casual labour".

14 The fact that the person hired is a casual  
15 workman, does not automatically exclude him from the  
16 benefits of the Act, provided he is hired for the purpose  
17 of the employer's business.

18 The length of time during which he will  
19 be working for the employer is of no significance to  
20 decide if he is a workman and, therefore, entitled to  
21 compensation.

22 The master and servant relationship  
23 between the employer and the workman, is the determining  
24 factor. All circumstances of the employment, with par-  
25 ticular reference to control, supervision and terms of  
26 work, are considered in establishing whether or not a  
27 master-servant relationship exists.

28 If it is established that the man is  
29 under the control and supervision of the employer, and  
30 was hired for the purposes of the employer's business,





1 he might then be considered a workman and entitled to  
2 the protection of the Act. If this relationship is not  
3 established, the man would be considered as an independent  
4 operator or contractor and not assumed to be a workman  
5 of the employer.

6 The independent operator can apply for  
7 compensation coverage under the provisions set out in  
8 section 90(a), but the point I would like to make is  
9 that if a man is hired as a casual labourer, for the pur-  
10 pose of the business, and is a workman under the control  
11 and supervision of the employer, it does not matter what  
12 the duration of the employment is: If he is hired for  
13 the purpose of the business and is a workman, he is  
14 entitled to compensation. He may be hired just for a  
15 day, for a week, but so long as he is hired for the  
16 purpose of the business and is a workman, not a contractor,  
17 then he is entitled to the protection of the Act.

18 MR. ESTEY: I didn't understand that last  
19 part. The question of what is a contractor seems ir-  
20 relevant in the section. Have you got an example of when  
21 you exclude a man?

22 MR. KERR: We can take an example of a  
23 firm which has a factory in the suburbs and he contracts  
24 for someone to come along and mow the lawn.

25 MR. ESTEY: The section says, "employees".  
26 Let us make it as difficult as we can; he is employed  
27 to mow the lawn.

28 MR. KERR: If he is employed to mow the  
29 lawn and he is on the payroll and under the control and  
30 supervision -







1 MR. ESTEY: He is not on the payroll; he  
2 is casual labour. He comes along the street and I say  
3 to him: "I am employing you to cut my factory lawn. I  
4 want you to come to work every Thursday and cut it and  
5 use my lawnmower".

6 MR. KERR: "Use my lawmover, and you will  
7 do it on Thursday from 8:00 to 4:00 p.m."

8 MR. ESTEY: Yes, and, "You will cut from  
9 east to west".

10 MR. KERR: Right. He is casual because  
11 only coming once a week, but he is under the control and  
12 supervision of the employer. He has been told to come  
13 at a certain time and mow at a certain time and how to  
14 do the job. He is a workman of the employer.

15 MR. ESTEY: Is he for the purposes of the  
16 employer's trade?

17 MR. KERR: Yes, sir. He is cutting the  
18 lawn in connection with the plant, which is part of the  
19 employer's business.

20 MR. ESTEY: So the Board interprets this  
21 to exclude independent contractors, but everybody else  
22 is included.

23 MR. KERR: No, this was intended - I am  
24 told this goes way back in years, so it is hard to trace -  
25 I am told that this was intended originally to exclude  
26 the owner of a business who might hire somebody to go to  
27 his home and do some job which is not connected with the  
28 employer's business. This is the history of it.

29 MR. ESTEY: But your modern interpretation  
30 of that section, in the day-to-day operation of the





1 Workmen's Compensation Board, is that he is not an  
2 independent contractor, and he is paid out of the business  
3 and he works around the business he is in.

4 MR. KERR: If he is working for the purpose  
5 of the business rather than around the business, if he  
6 is working for the purpose of the business, and even  
7 though it is casual, and there is master-servant relation,  
8 then he is entitled to compensation because he is a work-  
9 man of the employer.

10 MR. ESTEY: You can get an example out  
11 of your example of an exclusion, if the owner of the  
12 company also owned the vacant lot next door, personally,  
13 and he hired a man to mow the lawn on that next door lot.  
14 Whether or not he charges his company, he would not be  
15 included under the Act?

16 MR. KERR: Your example is a good one.  
17 The lot is not in connection with the employer's business.

18 THE COMMISSIONER: One of the letters I  
19 received was from a gentleman who had acted as truant  
20 officer for some township, at \$50 a year, in the course  
21 of which he had broken his leg. He sought Workmen's  
22 Compensation, and on that occasion he was turned down on  
23 the basis that he was not under the control or supervision  
24 of the Board, but he was doing it on his own. Now, you  
25 are making a distinction on the basis of being an indepen-  
26 dent contractor.

27 MR. KERR: Yes, the determination: Is  
28 he a workman under the control and supervision of the  
29 employer? That is, you say: Is he a workman or contractor?

30 THE COMMISSIONER: You say he is not an





1 employee but he is really a contractor?

2 MR. KERR: Right. The point I would  
3 like to clarify is that there are workmen who might be  
4 called casual workmen in the common sense, and they can  
5 be given workmen's protection under our Act.

6 THE COMMISSIONER: Are there any questions?  
7 You have one here, Mr. Hall?

8 MR. HALL: I recall a particular situation  
9 which is somewhat contradictory to the Board's position  
10 on one position and its position on the other. Where you  
11 have got, for example, a separate school board in Sudbury  
12 district, who have janitors and janitoresses, who come in  
13 and do the necessary janitoring work, they are provided  
14 with equipment by the Separate School Board, that is the  
15 tools of the trade, so to speak - buckets, soap and so on.  
16 In that particular instance these people are covered under  
17 the Act, according to the Board interpretation.

18 On the other hand, a lady working for a  
19 particular firm who comes in after the regular hours of  
20 the firm's office business and cleans up the offices,  
21 although she has no particular work schedule other than  
22 it is done after working hours, in this particular situa-  
23 tion, compensation was denied.

24 I was just wondering what the point is  
25 there? Was it because she was not scheduled in precise  
26 hours?

27 MR. KERR: I cannot answer that question,  
28 Mr. Commissioner, without knowing more about the circum-  
29 stances.

30 MR. HALL: I was just wondering as to







1 whether or not the common law relationship that you were  
2 talking about was laid down so specifically that the  
3 workman had to be working in a specific schedule, laid  
4 down by the employer?

5 MR. KERR: Perhaps I can partially answer  
6 the question by saying we rely upon the master-servant  
7 relationship and this is what we must establish. I  
8 cannot say anything more because I do not know the circum-  
9 stances. I would have to know all the facts of the  
10 employment arrangement before I could give an answer to  
11 that question.

12 MR. GALLAGHER: Mr. Worling said 93 per  
13 cent of all of the people that come into their hands are  
14 successfully rehabilitated. I would wonder about the  
15 7 per cent. What happens to them, and under what circum-  
16 stances? Are they just left? Are the cases too expensive  
17 to retrain? There is a case I mentioned to you earlier,  
18 Mr. Kerr.

19 MR. KERR: Mr. Commissioner, the answer  
20 to that question is that we do not make a determination  
21 on rehabilitation on the basis of the expense involved.

22 The seven per cent who have not been re-  
23 habilitated, they can fall into several categories. Some  
24 of them have reached the age where they may not wish to  
25 go back to work. Some of them have reached an age where  
26 they wish to continue work but, because of the age factor  
27 we have been unsuccessful in assisting them.

28 Then we have a very small percentage of  
29 people who have not cooperated with us to the extent that  
30 was necessary to effect rehabilitation. So there are





1 really those three factors.

2 THE COMMISSIONER: You also mentioned  
3 another that Mr. Gallagher referred to, in any event,  
4 brought evidence about, and that is where you feel that  
5 his formal education is not sufficient to allow a long  
6 period of training.

7 MR.KERR: If I may phrase it differently,  
8 we may feel that we cannot provide him with senior educa-  
9 tion or higher education, because he lacks the formal  
10 education required to get into that higher educational  
11 field.

12 This does not mean that we would not offer  
13 to provide the man with other rehabilitation assistance  
14 in the field of retraining in the area where we feel that  
15 is applicable. We would not cut the man off from all  
16 service because we did not feel he would fit into one  
17 field. We would have alternatives for this man.

18 THE COMMISSIONER: Mr. Gallagher.

19 MR. GALLAGHER: In one case in point that  
20 we had discussed, our organization was not asking that  
21 the man should get higher education. We were asking that  
22 he should get the normal level of education to bring him  
23 up to a standard where he might be able to start into  
24 some other type of work. We do not want him to go to  
25 college, that would be ridiculous in this case. What we  
26 merely wanted was to get him up to grade 12 or something,  
27 in which he could start in another trade.

28 I realize the wonderful job that the  
29 Compensation Board is doing and I am not trying to be  
30 critical. I want to clarify my mind now so that I know





1 what to do for my membership in the future, because we  
2 gave up the correspondence with the Board because we felt  
3 that this man could not possibly be retrained. Of course,  
4 at the moment he is working now in our organization so  
5 perhaps you can gain something from that. It was impos-  
6 sible to rehabilitate him, so "send him to the union", I  
7 suppose.

8 But, seriously, in this one case, why  
9 could he not be brought up to grade 12 - a man of intel-  
10 ligence?

11 MR. KERR: I do not feel we should be  
12 discussing individual cases on the floor, but I would  
13 like to say that the man was given opportunities to be  
14 retrained in other areas, although we did not agree that  
15 he should go on to higher education, for reasons which  
16 we feel were legitimate.

17 I do not feel that I can discuss an indi-  
18 vidual case on the floor, but I would be delighted to  
19 meet with Mr. Gallagher and discuss any details of the  
20 case at his convenience.

21 MR. GALLAGHER: I am afraid I was rather  
22 undermined, Mr. Commissioner.

23 MR. ESTEY: Mr. Commissioner, Mr. Yourt,  
24 who has been with us before, from Rio Algom, has indicated  
25 he would like the opportunity to address the Commission  
26 briefly on rehabilitation.

27 MR. YOURT: Mr. Commissioner, this is  
28 very much off the cuff. I could put it, possibly, on  
29 paper better, but I would like to take this opportunity,  
30 first, to attest to the good work that the Board has been







1 doing on rehabilitation.

2 I have had the privilege of working with  
3 Mr. Worling, possibly 20 years or in that order, and we  
4 have no problems in that area.

5 Mr. Kerr read from the most recent type  
6 of letter that is written to the worker, and there is  
7 an area here. I believe Mr. Estey asked the question:  
8 Why does not the Board send a copy of this to the employer?  
9 I believe this would be a help and I am sure there would  
10 be no problem getting that done.

11 What actually happens in this case, and  
12 this is the reason I came to speak, is that in the minor  
13 cases what really happens usually, is that the worker  
14 will arrive back at our office in the safety office, or  
15 the personnel office, with a "Return to Work" slip. It  
16 is a standard form used by the doctors, checked off:  
17 "This employee is ready to return to light duty".

18 It does, in some instances, present some  
19 problems in that we do not know when he is going to come  
20 back. We have the slip and we have got to talk to the  
21 man without having a previous opportunity of talking to  
22 the doctor to see what type of work he is suitable for.  
23 So, of course, we have to say: "Well, you had better  
24 come back" and we are hesitant to do that.

25 If we did have a copy of that letter, we  
26 could possibly, in the meantime, call the doctor and ask  
27 him what type of work he can do, tell him what type we  
28 have, and arrive, possibly, at something before the man  
29 appears in our office.

30 This is just one point. This whole





1 business of rehabilitation is a major problem in regard  
2 to the serious type of cases. I am referring mainly to  
3 the pre-existing conditions that were established by  
4 International Nickel, for example.

5 We have some apprehension about previous  
6 employment or rehiring or continuing employment in cases  
7 where the man has a pre-existing condition and is aggra-  
8 vated on the job for a short time, but is a potential  
9 high cost, high capitalization case. When I say "high  
10 capitalization", some of these cases run ten, twenty or  
11 thirty thousand, and to have several of these in a year,  
12 (they may have even two or three of them) would be equiva-  
13 lent to all the other costs in the area. So that we are  
14 concerned about this.

15 THE COMMISSIONER: You are talking now  
16 about employing somebody who has, to your knowledge, when  
17 you employed him, a pre-existing disability.

18 MR. YOURT: Sometimes without our knowledge,  
19 and the case that we cited in our brief, we had no know-  
20 ledge or any pre-existing disability. That is the heart  
21 case.

22 Similar things happen in back cases where  
23 there is an inherent weakness or developing degeneration  
24 and it becomes manifest on the job. These are the ones  
25 we are concerned about.

26 I can say, in the main, employers do want  
27 to employ these. They are good workers, a lot of them,  
28 and we want their services, and we want to be able to  
29 employ more, but would have less hesitation if there were  
30 some means of deciding what part of this is a pre-existing





1 condition, and only be charged with the part that we, as  
2 employers, are responsible for.

3 We mentioned in our brief the social  
4 security registration, whether it is Consolidated Revenue  
5 or what have you. We had some assurance that we would  
6 be charged only with our responsibility, and we are  
7 willing to bear that. Then I think the problem of re-  
8 habilitation will be much easier. I think this would  
9 result in a very big reduction in the administration of  
10 the Board, that end of it.

11 THE COMMISSIONER: Thank you.

12 MR. ESTEY: I was just thinking of section  
13 83 on that last part, Mr. Commissioner:

14 "The Board may make such compensation  
15 out of reserves .."

16 and it goes on to say:

17 "... but if, for any reason it is deemed  
18 inexpedient to withdraw the amount  
19 required from the reserves, the Lieutenant-  
20 Governor-in-Council may direct same to be  
21 advanced out of the Consolidated Revenue  
22 Fund, and in that case, the amount  
23 advanced shall be collected by a special  
24 assessment and when collected, shall be  
25 paid over to the Treasurer of Ontario."

26 THE COMMISSIONER: In any event of that,  
27 it all comes out of the same pocket?

28 MR. ESTEY: It looked as though the  
29 Lieutenant Governor was going to put up some money there  
30 for a minute, but he did not.







1 Mr. Commissioner, those are the submissions  
2 on rehabilitation, of which we have notice. There are  
3 written submissions which have not been presented to  
4 you. Mr. Guthrie will indicate what they are and point  
5 out the principles of the submission. There has been  
6 some repetition, of course, so I think he is going to  
7 avoid reading.

8 THE COMMISSIONER: While I think of it,  
9 a gentleman by the name of Ward gave evidence here during  
10 the week, and I have been asked to state that he was  
11 brought here on subpoena.

12 The circumstances are that Mr. Gallagher  
13 and Mr. Koskie stated to me that they considered that  
14 Mr. Ward would have evidence of value to the Commission  
15 and that he should be here but that he refused to come  
16 unless he were subpoenaed to come. As a consequence,  
17 I issued instructions that they should be given a subpoena  
18 for the purpose of bringing him here.

19 If some misunderstanding has arisen, as I  
20 am told it has, I would like it to be clear that Mr. Ward  
21 was brought here under subpoena, and those are the cir-  
22 cumstances in which he appeared before this Commission.

23 Yes, Mr. Guthrie?

24 MR. GUTHRIE: Mr. Commissioner, I think  
25 it might be helpful if I referred very briefly to the  
26 submissions on the subject of accident prevention, as  
27 well as those on rehabilitation, which were not presented  
28 orally. I think I can do it quite briefly, if it meets  
29 with your approval. They are, in the main, quite short  
30 and I might just in a word or two, comment on the substance





1 of them.

2 On the subject of accident prevention,  
3 there is the brief of the Automotive Transport Association  
4 of Ontario, and at page 22, that Association submits that  
5 the Transportation Safety Association is working satis-  
6 factorily and has had considerable success. The submit-  
7 tors of the brief recommend that it be continued in its  
8 present form unimpaired.

9 The brief of the Bell Telephone Company of  
10 Canada, at page 6, refers briefly to the roll of the  
11 Board in the conduct of the accident prevention associations,  
12 and recommends that the Board give consideration to expand-  
13 ing its role and providing leadership in the field of  
14 accident prevention in industry.

15 The brief of the Board of Trade of Metro-  
16 politan Toronto, at page 6, submits that the accident  
17 prevention associations should be continued, and that  
18 they should continue to be constituted exclusively of  
19 employers. As the reason for this, the basis of this  
20 submission, they cite the legal duty imposed on employers  
21 under such legislation as the Industrial Safety Act,  
22 whereby it is the employer's duty to take precautions for  
23 safety.

24 The Construction Safety Association of  
25 Ontario, which has not appeared before the Commission,  
26 nevertheless did write a letter to you, sir, under date  
27 of August 3rd, which is simply to the effect that it  
28 feels no need to make any submission. It praises the  
29 state of cooperation between its own association and the  
30 Board; states that in its opinion, all of the groups





1 involved in the accident prevention field are performing  
2 well; praises the penalty system of section 86 (6a);  
3 feels that that section, plus the recent creation of the  
4 Ontario Labour Safety Council, will overcome some past  
5 objections in the field.

6 THE COMMISSIONER: That was the Safety  
7 Association that came under the greatest criticism?

8 MR. GUTHRIE: Yes, and the one that has  
9 not been present, at least to make an oral submission.

10 Northern Forest Products, which have a  
11 division of Northern Wood Preservers Limited of Port  
12 Arthur, by a letter of July 27th, has some comments on  
13 the merit rating system, which perhaps I might read, Mr.  
14 Chairman.

15 The letter is under the signature of F.  
16 Hedley, the Manager, and reads in part:

17 "A few years ago the merit rating system  
18 was put in in many companies, and in this  
19 I have been heartily in accord, although  
20 I did not feel, at the time, that it was  
21 being done correctly.

22 However, I do feel that with the merit  
23 rating, we should have the cost of  
24 permanent disability and deaths eliminated  
25 from the computing of our costs for merit  
26 rating.

27 I further believe that when there is  
28 doubt as to whether the company was  
29 actually responsible for the permanent  
30 disability, because of deterioration in







1 the man's back or other parts, due to  
2 frequent accidents within the industry  
3 and in other industries, that because  
4 of a need to pension the man off on the  
5 last accident, whether it be directly  
6 in connection with the pensionable portion  
7 of the body, that the company be absolved  
8 of this in the merit rating plan."

9 In other words, there should be another  
10 fund when they are unable to really pin-point the direct  
11 and definite cost of the pension applicable to the injury.

12 I think we have heard, firstly, there is  
13 a second injury fund which will assist with the situation  
14 somewhat; secondly, that the appeal procedure does  
15 permit extraordinary matters to be taken into account in  
16 the case of those penalty assessments. Whether that  
17 would assist that gentleman, I do not know.

18 The brief of the Ontario Federation of  
19 Construction Associations was read in, in its entirety  
20 by Mr. Paulin some weeks ago, but there is a reference  
21 to this subject at page 2 of the brief, recording the  
22 appreciation of the Federation for the continuing interest  
23 of the Board in safety measures, particularly in the  
24 relationship and rapport that exists between the Board  
25 and the Construction Safety Association of Ontario which,  
26 governed by a construction industry Board of Directors,  
27 is doing a tremendous educational job in order to cut  
28 the accident rate, thereby reducing the overall costs in  
29 assessment to the construction employer.

30 On that point, the brief concludes:





1 "We submit that the construction safety  
2 association's effectiveness lies in the  
3 voluntary nature and the employer's  
4 involvement. We recommend that no  
5 further legislative restrictions be  
6 placed upon the operation of this  
7 Association, and we affirm that employers  
8 should continue to have a primary voice  
9 in its affairs."

10 The Ontario Forest Industries Association

11 have a brief reference at page 2 of their brief, very  
12 much to the effect of the others that I have read to  
13 the Commission, and in this case, it is to the effect  
14 that the accident prevention associations supported and  
15 sponsored by this particular industry, have been effective  
16 and that the relationship referred to by Mr. Justice  
17 Roach in his Report, be maintained, that is, between the  
18 associations and the Board and that every effort be made  
19 to retain the contribution of senior management, a contri-  
20 bution that is, in all cases, completely voluntary and  
21 requiring no remunerations from the Associations.

22 The brief of the Retail Council of Canada  
23 was also read in full at one time, and at page 4 of that  
24 brief, two points are made on this subject: One, which  
25 is, I think, the only occasion on which it has been made  
26 before the Commission, recommending that the form of the  
27 report of accidents be redesigned and that the portion of  
28 it dealing with the circumstances of the accident, be  
29 reproduced in its entirety for forwarding to the appropriate  
30 safety association, pointing up some possible lack of





1 complete information being furnished to the associations  
2 as to the surrounding circumstances.

3 Then, on the subject of the associations  
4 themselves, the brief points out that retailers in Ontario  
5 are members of the I.A.P.A., and that that Council is  
6 keen to see the work of that and other related associations  
7 continued.

8 Lastly, on this subject, the brief of the  
9 United Steel Workers, again which was read in full - as  
10 it was not many days ago, Mr. Commissioner, you, I am  
11 sure, will recall there is quite a lengthy portion of the  
12 brief on this subject, from pages 27 to 32; the main  
13 point being that the whole question of enforcement and  
14 making of regulations should be brought under the juris-  
15 diction of the Board, including the environmental health  
16 branch, as is the case in British Columbia.

17 Then to turn, lastly, to the subject of  
18 rehabilitation, the brief of the International Nickel  
19 Company on this subject, was read at an earlier time,  
20 pages 20, 21 and 22; and that of the Ontario Federation  
21 of Construction Associations, (again previously read) at  
22 page 11.

23 I think that completes the references in  
24 briefs on those subjects.

25 MR. ESTEY: Mr. Commissioner, our next  
26 announced sessions are next Monday at 10:00 o'clock, for  
27 the purpose of hearing submissions from individual persons  
28 as distinct from organizations and associations; and  
29 any individual person who has filed a brief and is  
30 desirous of appearing in person, or by counsel for this







1 purpose, may do so next Monday morning.

2 Following the completion of the presenta-  
3 tion of these briefs by individuals, then the Commission  
4 will hear those organizations and associations and the  
5 representations of the Workmen's Compensation Board on  
6 such matters which have been raised in their briefs, but  
7 which have not been dealt with under these seven or eight  
8 major topics with which we have been dealing for the  
9 past three weeks.

10 The major topics raised in most of these  
11 briefs will also have been discussed, and it is intended,  
12 during this final week of public hearings, to complete  
13 any outstanding matters not previously dealt with.

14 THE COMMISSIONER: We stand adjourned  
15 until Monday morning at 10:00 o'clock.

16 ---At 12:55 p.m., the Hearing adjourned  
17 until 10:00 a.m., Monday, October  
18 31, 1966.  
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